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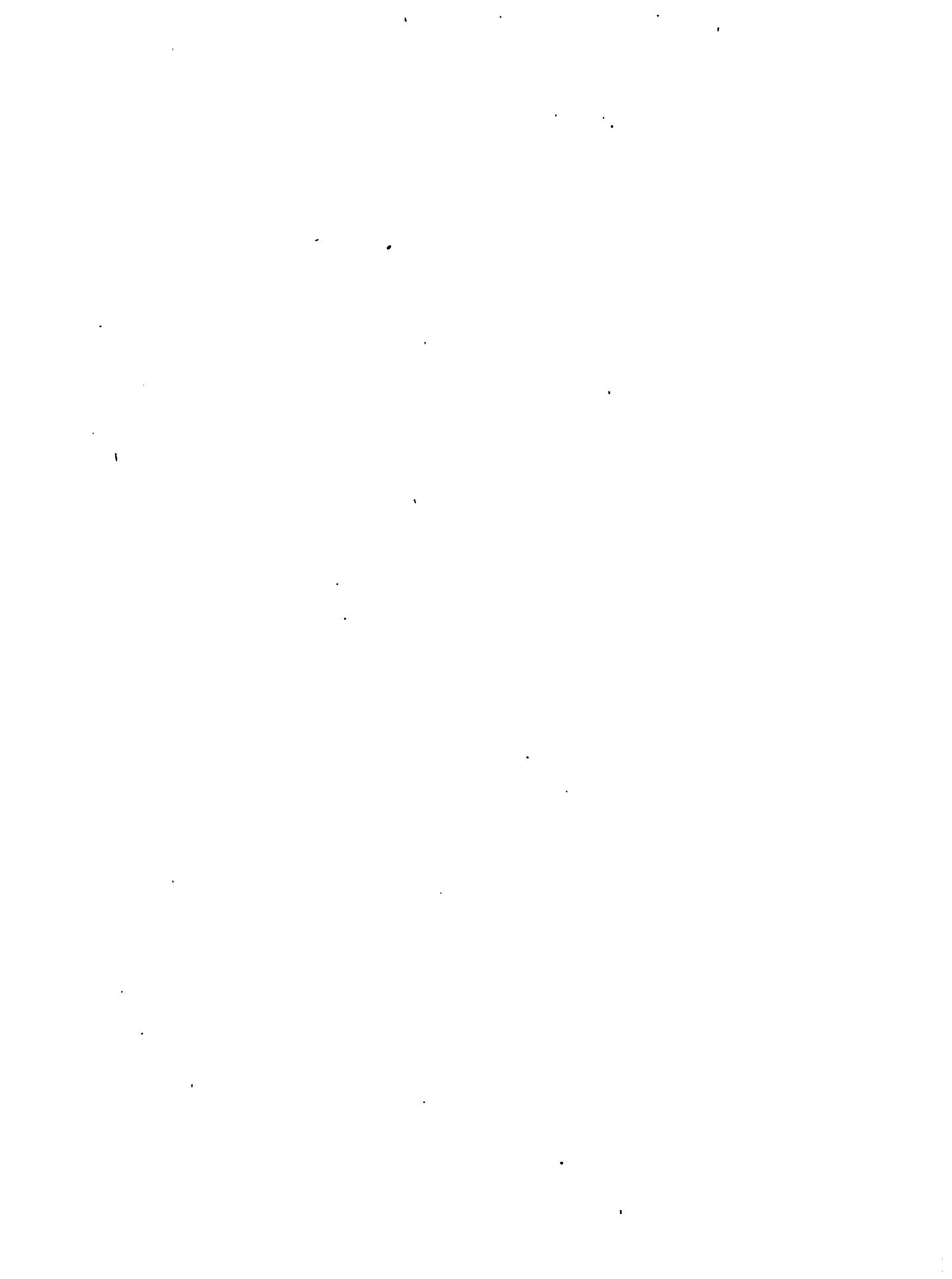
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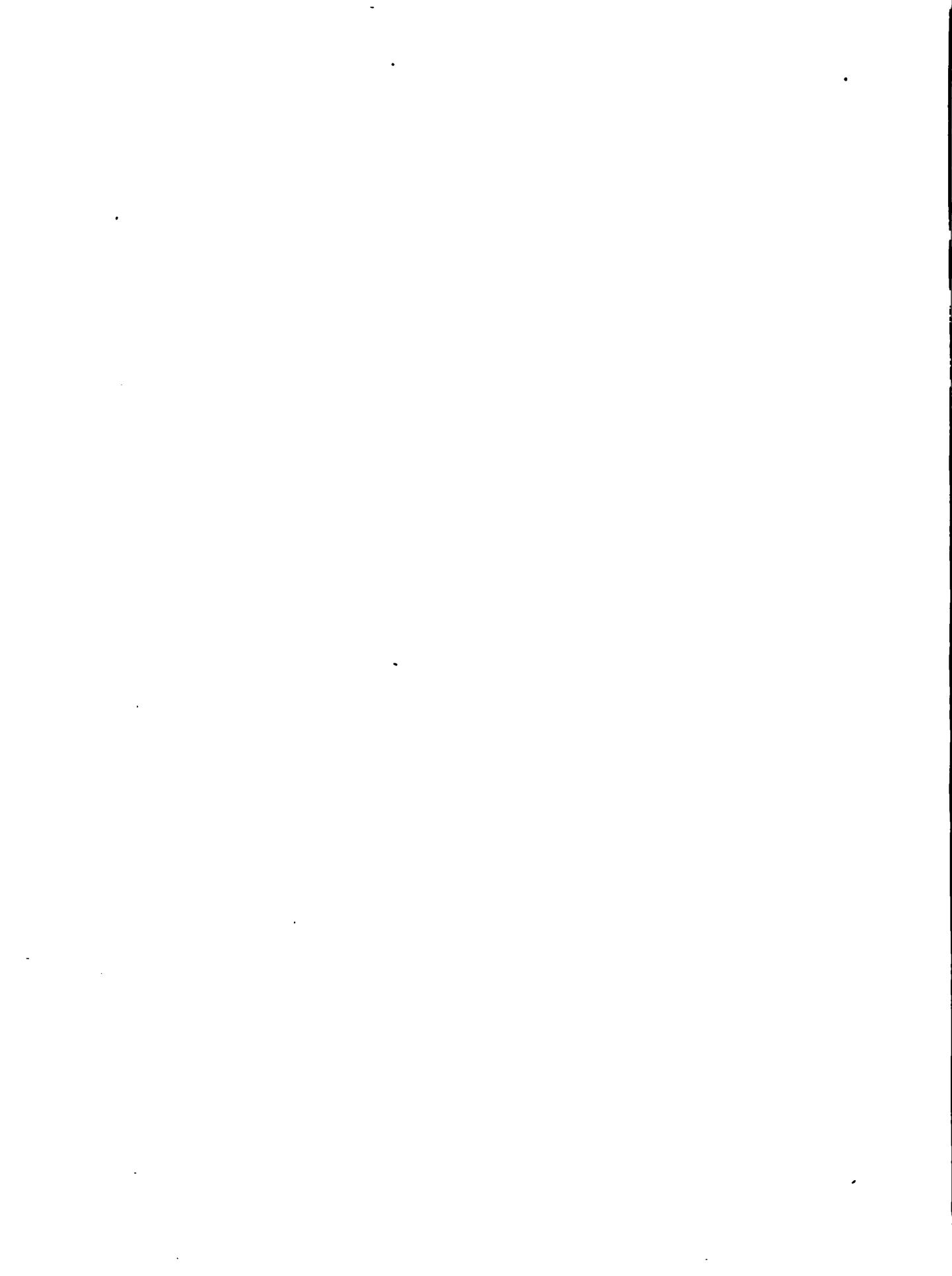
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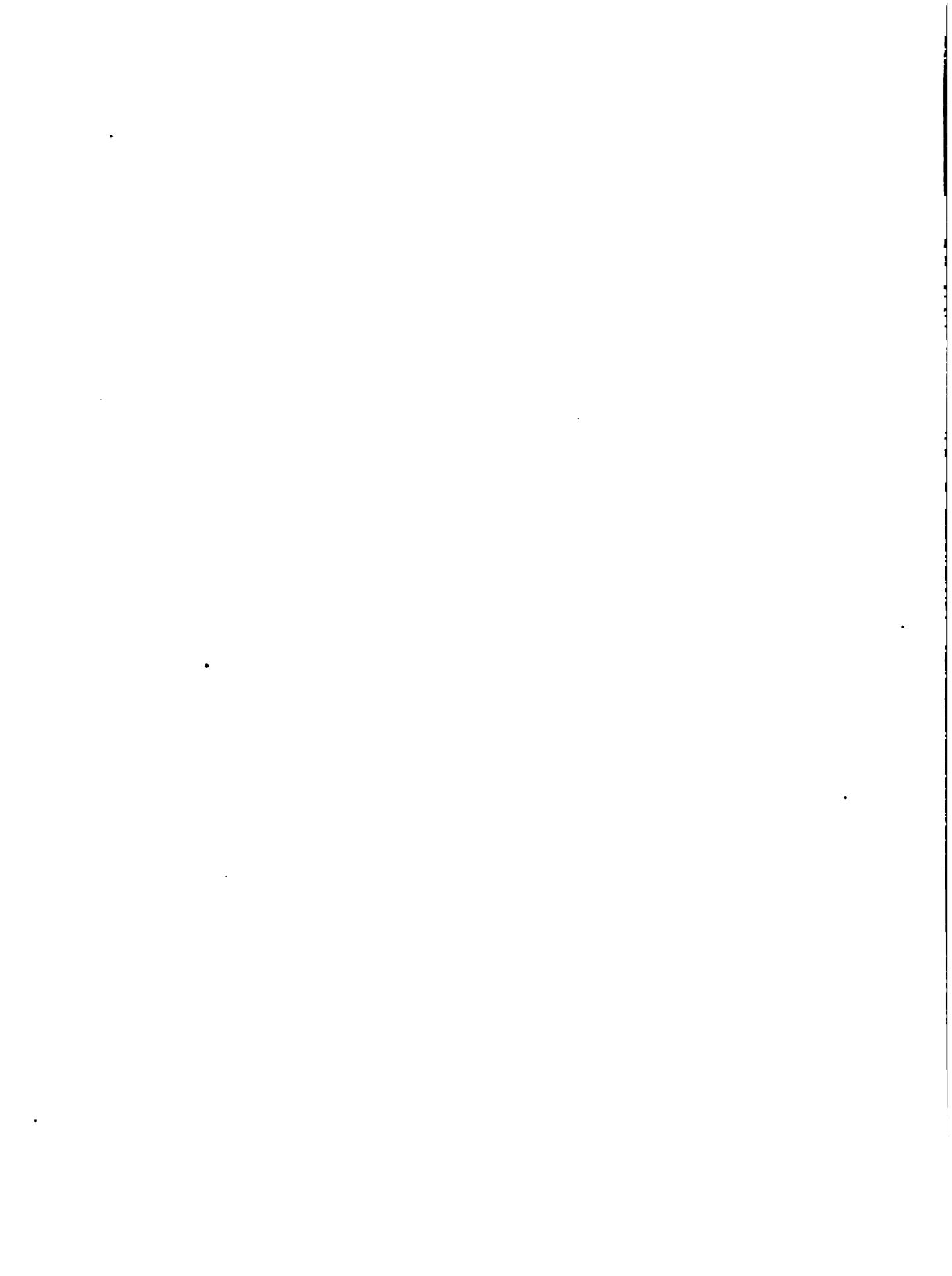


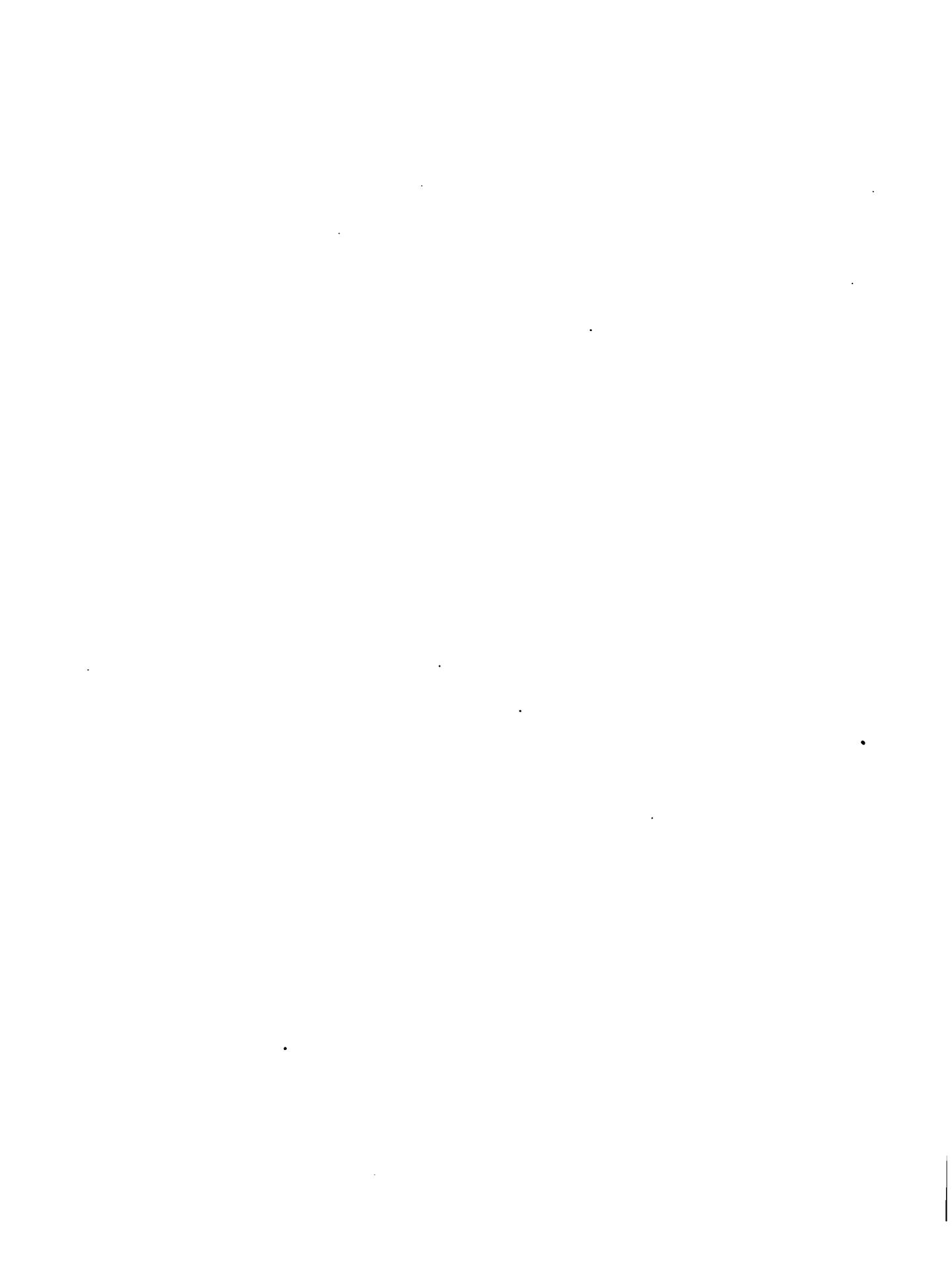


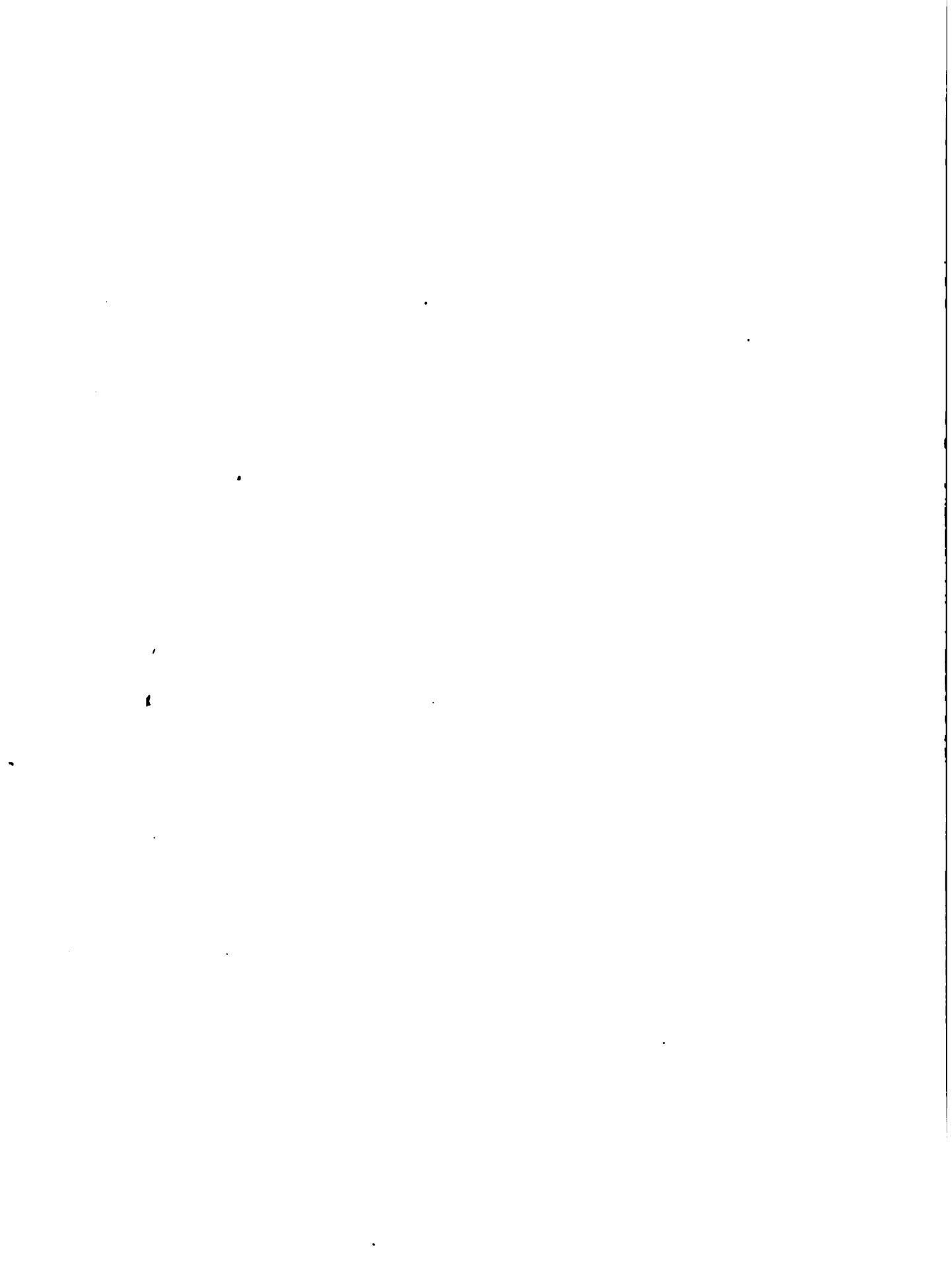


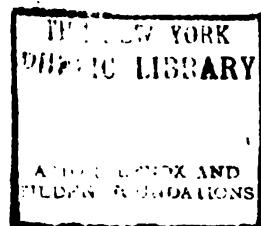
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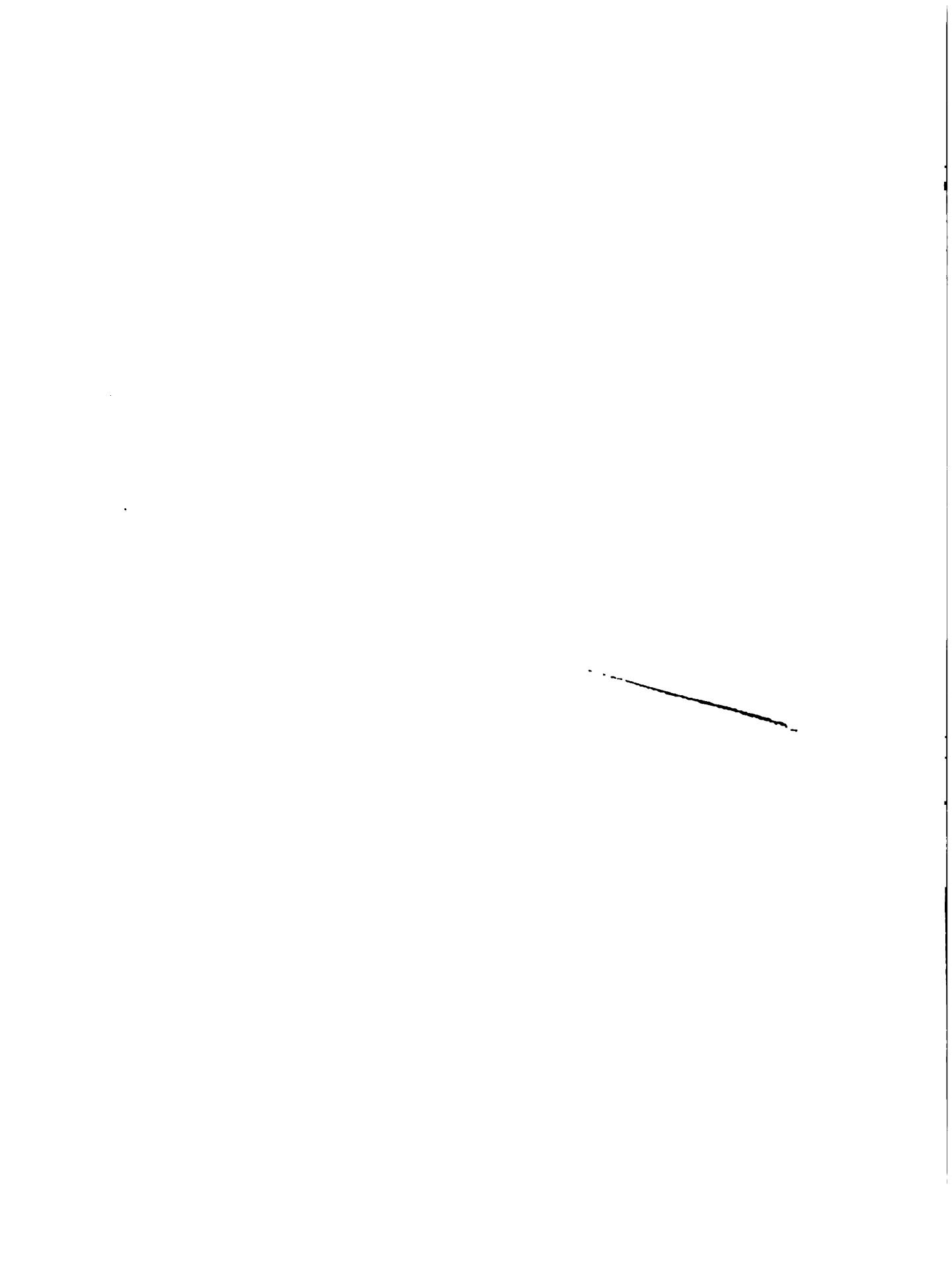


MR. MARY RANDOLPH, 1712. *Engraving by J. Smith, 1740.*



THE CROWN PUBLISHED BY J. DODS, 1740.





HISTORICAL OBSERVES  
OF MEMORABLE OCCURRENTS  
IN CHURCH AND STATE,

FROM OCTOBER 1680 TO APRIL 1686.

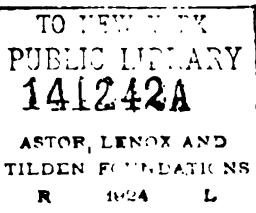
BY

SIR JOHN LAUDER OF FOUNTAINHALL.

PRINTED AT EDINBURGH:

M.DCCC.XL.

H. T.



EDINBURGH: PRINTED BY THOMAS CONSTABLE,  
PRINTER TO HER MAJESTY.

AT an Extraordinary General Meeting of the BANNATYNE CLUB, held at Edinburgh, in the Hall of the Antiquarian Society, on Friday the 8th of July 1836:—

RESOLVED,—That the Historical Observations from October 1680 till April 1686, by SIR JOHN LAUDER OF FOUNTAINHALL, afterwards one of the Senators of the College of Justice, with a continuation of Historical Notices of Scotish Affairs, selected from his other Manuscripts, preserved in the Advocates Library, be printed for the Members, under the joint superintendence of ADAM URQUHART, Esq. and THE SECRETARY OF THE CLUB; and that fifty copies of the work be thrown off on a different kind of paper for general sale.

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At a Meeting of the Committee of the BANNATYNE CLUB, held at Edinburgh, in the House of the President, on Friday the 3d of July 1840:—

RESOLVED,—That the volume of “ Historical Observes of Memorable Occurrents,” by SIR JOHN LAUDER of Fountainhall, which was circulated among the Members of the Club in January 1838, be now completed as a separate work.

*Extracted from the Minutes of the Club.*

DAVID LAING, *Secretary.*



# THE BANNATYNE CLUB.

DECEMBER, M.DCCC.XL.

---

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THE EARL OF ASHBURNHAM.

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WILLIAM HENRY MILLER, ESQ.

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HON. SIR JOHN A. MURRAY, LORD MURRAY.

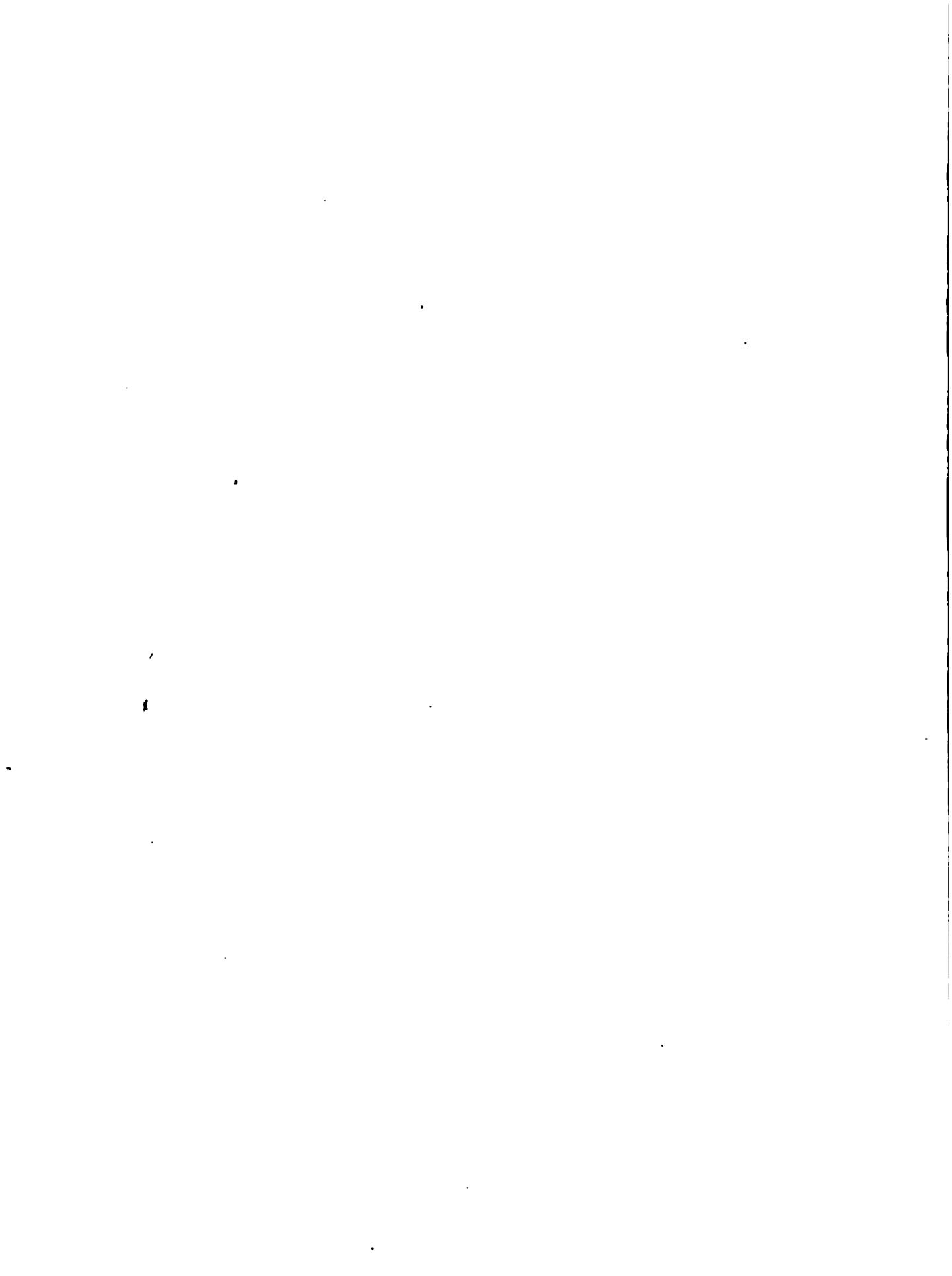
WILLIAM MURRAY, ESQ.

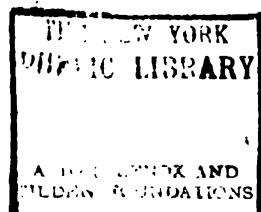
MACVEY NAPIER, ESQ.

SIR FRANCIS PALGRAVE.

LORD PANMURE.

HENRY PETRIE, ESQ.

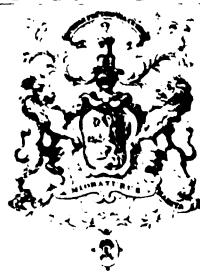






Engraving of a portrait of a man with long, powdered hair, wearing a dark robe and a white cravat, set within an oval frame.

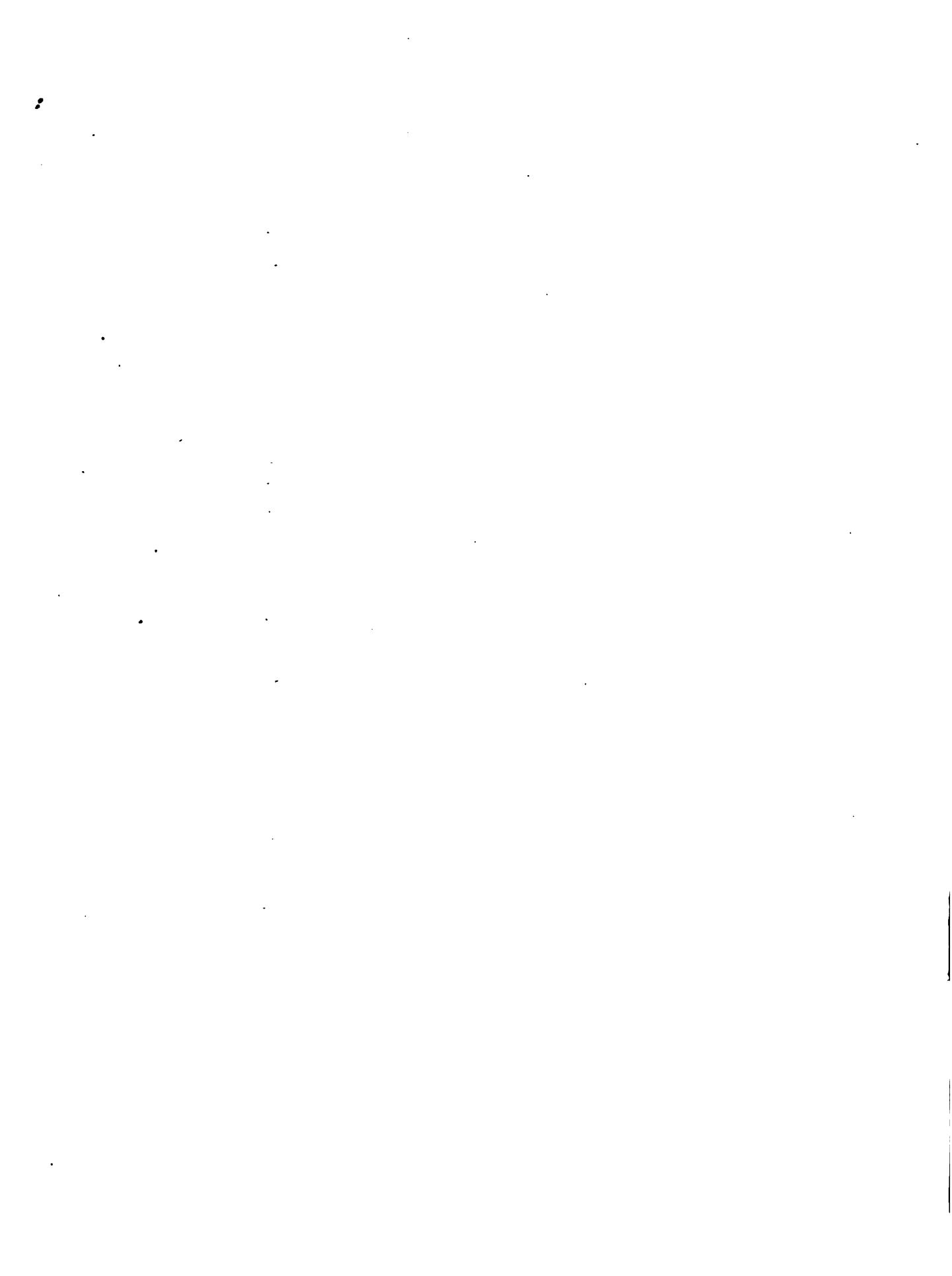
JOHN MINTON MASTERS, 1712. *John Minton, Master of the Mint, 1712.*



THE CROWN COLLECTION OF THE MINT, LONDON.

Printed by the author, 1712.

From a library in the possession of the Prince of the Royal Family of Prussia, etc.





A few mistakes having been made by the transcriber of the MS., from unacquaintance with Lord Fountainhall's handwriting, the following corrections are requisite: Most of these, however, are very unimportant.

Page 14, l. 24, *for* by Stewart, *read* Hy Steward.  
 ,, 24, l. 25, *for* ij others, *r.* j others.  
 ,, 26, l. 22, *read* Isabel Alison, a Perth woman, the other Marion Harvey.  
 ,, 46, l. 3, *insert a comma after* Advocat.  
 ,, 55, l. 23, *for* lenth, *r.* lenth.  
 ,, 73, l. 10, *for* marked G. *r.* marked E.—l. 11, *for* 2 ,) *r.* 266.)  
 ,, 87, l. 22, *for* Daver, *r.* Daveis.  
 ,, 123, l. 8, *for* Mevis, *r.* Nevis.  
 ,, 141, l. 25, *read* Semple and [Thomson.]  
 ,, 180, l. 8, *for* plate, *r.* place.  
 ,, 189, l. 1, *for* 23 of December 1682, *r.* 20 of November 1681.  
 ,, 201, l. 13, *insert a comma after* Charleton.  
 ,, 205, l. 7, *for* Melthorp, *r.* Nelthorp.  
 ,, 208, l. 8, *for* Griffiffs, *r.* Griffiths.  
 ,, 253, l. 13, *for* redarque, *r.* redargue.  
 ,, 254, l. 4, *for* Holland, *r.* Island, [Iceland.]  
 ,, 254, l. 25, *for* intend to, *r.* intend, God willing, to.  
 ,, 255, l. 1, *The following marginal note was accidentally omitted.*

As particularlie anent some cruelties done by the Dutch at Amboyna, in March 1623, upon many English, most barbarously torturing them to death, under pretence of their accession to a forged conspiracy of the Japonees, for taking in their fort of Amboina, and for which Oliver caused them pay him a considerable sume. Sie the Dutch treacheries and cruelties in S. G. De . . . . . taon beside me.

,, 255, l. 10, *del* heir.—l. 11, *insert in blank* it had bein.—l. 12, *r.* [Few] privat.—  
*for* our King and them, *r.* our King and the States.  
 ,, 256, l. 14, *for* seazing, *r.* seasure.—l. 29, *for* deputes pretend, *r.* depute pretends.  
 ,, 258, l. 3, *for* seamen, *r.* samen.—l. 6, *for* one place, *r.* first place.  
 ,, 259, l. 14, *for* their's or, *r.* their's and.—l. 27, *for* tho no, *r.* tho 100.  
 ,, 260, l. 3, *for* man, *r.* man can.—l. 14, *del* the before sentence.—l. 25, *for*  
 revelant, *r.* relevant.—l. 27, *insert to before* suffer.  
 ,, 261, l. 11, *insert and after* owners.



*JEHOVAH PORTIO MEA.*

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**SOME HISTORICALL OBSERVES**  
**BREIFLIE MENTIONING**  
**SOME OF THE MEMORABLE OCCURRENTS**  
**HAPPENING AITHER IN CHURCH OR STATE**  
**THROW EUROPE**  
**BUT MORE ESPECIALLY IN SCOTLAND**  
**AND ENGLAND.**  
  
**BEING A CONTINUATION OF REMARKS OF THIS NATURE**  
**IN ANOTHER 8vo. BOOK.**

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[M.DC.LXXX.—M.DC.LXXXVI.]

**HISTORIA EST LUX VERITATIS, MAGISTRA VITAE, &c.**

IN ane thick 8vo. Manuscript, opening by the length, marked with the P. 1. letter F, I have sett doun some Miscellanie Historicall Collections of the affairs of the Ile of Brittain, but particularly of Scotland, digested into Annals, (in imitation of Tacitus,) by order of tyme as they occurred ; beginning at 1660, and ending in October 1680 ; but with many omis- sions, it being oft intermitted and negle&ted by me. Yet the pleasure ther is from such observations hath so far prevailed with me, that seeing the forsaid Manuscript is now filled, I have resolved to continue them heer, *modo propitium sit numen.*

The last observe I made in that other litle Manuscript, at page 222 of it, (which falls to be about the midle of the said book,) is anent the invec- tives and pasquills flew abroad in England, on the approach of the fitting of the English Parliament on the 21st of October 1680 ; and the Popish project of furnishing our King with French gold, he indire&tly suffering Tangier to fall unto the French King's hands. What I shall begin this book with, is the Duke of Albany and York's voyage for Scotland. *Quod felix faustumque sit.*

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[POSTSCRIPT.] What materialls I have gathered in this and my other books, are only for memoires, scedules and heads, from which a more exact Annal or Historie may be compiled, (if God give tyme;) ther being many errors and mistakes heir insert, on trust and from report, which on review will be purged and cut of ; and many things will be added or inlarged from thir abbreviats. This is to prevent my oun lasines, and to mind me this Collection is far from being compleit or perfite ; being set doun onlie for the *prima cura*, as any thing occurred or came to my notice, without full examination ; which I left to the 2d review.



## HISTORICAL OBSERVES.

OCTOBER 1680.

His Royall Highnesse the D[uke] of A[lbany] and Y[ork,] having been earnestly dealt with by the King's Privy Councell in England, (who late 2 dayes without interruption almost theiron,) to declare himself Protestant, and he refusing to goe against his conviction, he was advised to retire unto Scotland, in regard the King's necessities pressed to give way p. 2. to the Parliament's sitting ; and accordingly he parted on the 20 of October with his brother at Woolwich on the Thames, and arrived at Kirk-caldy bay on the 26 therafter, having borne out a mighty storne. The Chancellor and sundrie of the nobility and gentrie of Fyffe, and a part of his Majestie's guards, attended his landing, and he with his Dutchesse ware conveyed straight to Leslie, wheir he stayed till the 29 of October ; on which day he came from Bruntiland to Leith ; from which, in much solemnity, he was conveyed to the Palace of Halirudhouse. (See his former reception in the other manuscript at the 21 of November 1679, page 178. See my law folio manuscript at the 2d of November 1680. See the printed narrative of his reception.)

A litle after his arriveall, having visited the Castle of Edinburgh, and for a testimony of joy the gun called Muns Meg, being charged by the advice of ane English canoneer, in the shooting was riven ; which some foolishly called a bad omen. The Scots resented it extreemely, thinking

the Englishman might of malice have done it purposely, they having no canon in all England so big as shee.

About this tyme on Mr. William Wiseheart, minister at Wells in An-  
nandale (Nithsdale,) deserted his ministray, and sent a dimission of it to the  
Presbyterie, and turned Roman Catholick : so this is one of the remarkable  
trophees and spoills the Papists are beginning to gain upon our religion.

On the 21 of October 1680, the English Parliament met ; wheir the  
King had a pertinent discourse at ther opening, to which I refer, because  
it is besyde me in print. The Commons, *nemine contradicente*, elect one  
Mr. William Williams, (vide *infra* pa. 16,) recorder of the city of Chesters,  
for ther Speaker, who had been eminent in his opposition against the  
Duke of York ; he is approven by his Majesty, and obtains a grant of the  
3 usuall praeliminaries, that the members of the house, ther goods and  
servants, be free from arrests, that they may have freedome of speach  
within doors, and may have ready accesfe to his Majesty when required.  
By ane unanimous vote, they declare it was and is the duety of every true  
Englishman to petition the King for the fitting of the parliament, (tho we  
find in the other manuscript, page 181, the King by proclamation had dif-  
charged it as factious, and seditious, and contrarie to his *praerogative*.) and  
that thesse who gave in declarations bearing their abhorreny at these pe-  
titioners, were not dutifull subjects, and ware therefore in contempt called  
the Abhorriers. (Vide *infra* pag. in principio.) They likewayes resolved  
upon a bill for disenabling the D[uke] of York, or any other Popish suc-  
cessor, from inheriting the Imperiall crown of England. The Duke's  
party comfort themselves with this, that ther was great bustle and opposi-  
tion made before, against both the entries of Quean Marie and Quean  
Elizabeth in England, as being unlawfully begotten ; and yet after the  
case of ther succeffions exifted, they ware admitted by the peopple of Eng-  
land, and did reigne peaceably all their lifetyme ; and the Duke hopes it  
may even so befall him.

Some ridiculously imagined they found a similitude betuixt *Dux Albanus*, the tyrranous Duke of Alva who oppressed the Hollanders, and *Dux Albaniæ* the Duke of Albany and York.

It is the observation of a learned man, that England in the space of 20 years changed oftener ther religion than all Christendome had done for 1500 years before; for they made 4 mutations and transitions from 1540 till 1560. King Hendry the 8th abolishes the Pope's supremacy and suppresses Abbacies, but retains the bulk of the Popish religion; his sone Edward brings in the Reformed religion; Mary when she succeeds throws it out and introduces Popery; Queen Elizabeth banishes Popery again, and re-establisheth the Protestant religion; and all this done in lesse than the forsaide space.

Not only too many amongs ourselves, but the French turned the Plot into matter of sport and laughter; for at Paris they acted, in ther comedy called Scaramuchio, the English tryall, and busked up a dog in a goun like Cheiff Justice Scrogs, and a theiff is brought to the bar and accused P. 3. that he had stollen one of the King's great ships carrieng 100 guns, and had conveyed it away under his cloak. The pannell defends himselfe that the fact libelled against him was impossible to be done, and they might as weell say he had taken away Notre Dame Church on his back. Scrogs cryes, No, firrah, you did it, we can prove it, call the witneffes. And so on is brought in like Titus Oats and Bedlo, who depone they saw him doe it.

On the 12 of November 1680, a part of his Majesties forces apprehend some of Mr. Donald Cargil, the minister (who escaped narrowlie), his associates, viz. on James Skein a wryter youth brother to the Laird of Skeen in the North, on Archbald Stewart skipper in Borrowstounnesse, [Robert] Hamilton in Broxburne, and [John] Spreul apothecarie in Glasgow. As for James Skeen, tho formerly knownen to be a simple lad, yet was [he] so obstinately stout that, both in face of Privy Councell and of the Criminally Court, he ouned Camron's declaration of war against Charles Stuart (as he

called the King) at Sanquhar, approved ther fighting at Bothuelbridge, Moorkirk, or Aerdsmosse, ther covenant, ther excommunication, &c. tho he was present at none of them, and that he had freedome to kill the King as ane ennemy to God and the country, and subscryved the same. It was a pitty to see his forwardnesse, considering, if he had refrained what he confessed with his oun tongue, no probation could have reached him. Some concluded him melancoly and hypocondriack. The other 3 (tho tortured in the boots) would give no positive categorick answere to that quaeftion, If they thought it lawfull to kill his Majefty? but would nather call it lawfull nor unlawfull: fo that they are fingly guilty of a perverse obftinacy in opinion, which principle might be fatally dangerous if they should happen to put it in executioun, as God forbid.

William Johnston and some other marchands ware feized on upon a fufpition; but their being no evidence againft them farder than that they were stri& Presbyterians, they were fet at liberty.

Old Mr. John Cartairs, once minister at Glasgow, being brought before the Privy Councell, gave a very satisfactory accompt of his submiffion to and acknowledgement of the King and Councell's power. The Bifchop of Edinburgh declared his contentment, but alledged, he fwerved from the Presbyterian principles, in his acquiescing to the government and disclaiming the rising in armes. Mr. Cartairs, picked at this, replied, he payed all deference to the King's Councell, but he did not oun Mr. Paterfone's power as a judge their; for which he was removed with a rebuke.

When the Bifchop of Edinburgh was reaſoning in Councell for the Militia A&T, one whispered to another, Come let us hear the Apostle Paul discoursing on the Militia: Episcopus Miles is ane incongruity. (See Zieglerus book, fo called, againſt the late Bifchop of Munſter, Chriftopherus Bernardus.)

James Skein and the other 3 have got ane indytment of treason to anſwer at the Criminaſt Court on the 22 of November nixt; and the Advocat

then only infisiting against Skeen, and he adhering to all he had formerly declared, with this qualification, that he thought it lawfull to kill the King if he came in armes against them, he was sentenced to be hanged on the 25 of November, and his head to be therafter stricken of. He was repreived; de quo vide infra page following.

15 Novembris 1680. The Lord Ruffel and 200 of the House of Commons, having brought up to the House of Lords the ingrossed Bill, past after 3 severall readings in ther House, against the Duke of York, for disinheriting him and all papists from succeiding to the Imperiall Croun of England, France, and Ireland, (mentioned supra page 2,) but prejudice to the neareft protestant successor, and that it should be treason to correspond with the said Duke, &c.; the said Bill, by plurality of votes, was rejected, ther was 30 for it, and about 62 or 63 against it, and all the Bischops, save only 3 votes, viz. Compton bischop of London, brother to the Earle of Northampton, Doctor Pearson bischop of Chester, and Thomas Lamplugh bischop of Exeter; all the rest of the Bischops ware for the Duke of York's succeffion, though a papift, thinking it unjust to deprive him of his birthright for his opinion: The peers ware not frequent when it was voted, but many ware absent; vide infra.

Ther was only 3 members in the Commons House against this bill, viz. Mr. Seymour, late speaker, Laurence Hyde, the Duke of York's brother-in-law, and Sir Lionel Jenkins; some affirme ther ware many mo against it.

James Skeen, (of whom mention is made in the preceeding page,) having been persuaded to apply to the Duke of York and the Councell, for a delay of putting his sentence to execution, till he had tyme to confer with learned and pious men, and informe himself of his principles, he obtained a repreive to the 1 of December; but he repented of this addresse, and obstinately maintained his former tenets.

On the 29 of November 1680, Archbald Stuart and John Potter being pannelled for the same crymes at the Justice Court; Stuart very boldly

ouned all they had done, and confessed he was at Airdsmosse fighting against the King's forces; Potter was more timerous, but his hand was at a bond with some 30 others, wheirin he renounced the King; he would have qualified his adherence to these practises, in so far as they agreed with the Word of God; but both of them are condemned to be hanged on the same 1 of December, to which day Skeen was delayed; and accordingly, they ware all 3 hanged at the Croce of Edinburgh on that day, Skeen being all cloathed in white linnen to his very shooes and stockings, in affectation of purity and innocencie, and I wish it might be a prelibation and type of a white robe to be given him in Heaven; however, the singularity was unnecessary, if not wain. I conferred with him the day before his suffering, and with the other 2, I found him very setled and composed with much humanity and civility, but stll ouning his opinions; he pretended to much peace and assurance of salvation, and upon my reasoning, he confessed some haereticks had dyed with much seeming constancy, but he hoped his was of another sort; he could give me no solid or satisfieng returne; to that I urged, ther was no difference betwixt him and us in fundamentals, and that many godly presbyterians disclamed the principles he was to seal with his blood; only he affirmed the Episcopall and Erastian Government had introduced errors in fundamentalls, besydes profanity and other immoralities; wher I pressed, we that are privat persons ware not to anfwer for the faults of governors, but only to pray and mourn for them, he affirmed, from the old prophet's example, that we are bound to coerce them, &c. Assurance of salvation is always hung on the chain of truth, so that we may doubt the boastings of men dying in a knownen error, that ther confidence may be on mistaken grounds. Many thought, sincē he had committed no cryme deserving death, the P. 5. only wenteing of thesse opinions (being interrogated theron, wheiranent men (unlesse suspect) should not be infnared), should not be capitally punished, but some said he should be put in physitians hand for phle-

botomy, and dyet to purge his melancoly, and kept in perpetuall pris'on and firmance, that it might not be in his power nather to disseminat nor practise any of his dangerous positions; the fear is, he might escape and perpetrate on the King, or others, his bloody zeall, and then it would be vulneratâ causa remedium quærere. It is true, the putting to death for opinions, is a popish maxime not yet receaved among protestants, but that is to be understood when a man conceals it; but if he openly avow doctrines destructive of all governement, the sparing such might in the event prove cruelty; (see the marginal note on the A&t of Parliament, James VI. Parl 3. A&t 47, in 1572.) Mr. James Guthry minister, in 1662, suffered death for his judgement; and the very declining his Majesties authority, is declared treason by a&t 129 in 1584, so persons doe not advert to the hazard of the dissolution of all governement, (which Camron, Cargil, Skeen, and thesse men aime at), who think it was hard to take ther lives for ther opinions, having perpetrat no capital action, and though Lex unica C. fiquis imperatori maledixerit, feemes to pardon words against the Prince, yet that is wheir they proceed ex levitate et insaniâ, and not when they are malitious to shake of the King whollie, and affirme since they are in a declared war with him, that he may be lawfully killed as ane enemy, ane perjured apostat, ane excommunicat, &c.; for the poisonous leven may diffuse throw the giddy people loving changes, and alwayes inclined to beleive the worst of ther rulers, and may throw us in the same state convulsions such tricks did formerly draw on us. See in my folio law manuscript, Neving's case, condemned for words against the Duke of York, its at the 15 and 16 July 1680, page 156.

In the debates betwixt the learned Origen and the Heathen physitian Celsus, Origen, boasting of the great constancy and joy with which the Chriftians ran upon martyrdome, Celsus answers, this was no argument of a good cause, but might proceed from a blind misguided light of zeall, from ostentation, and a stubborne præfractoriness and stifnes of humor.

It is a strange humour of dying, Plutarch tells, some Mileian virgins took of killing themselves, which they could not get stemmed till they exposed some of ther bodies ignominiously to public view.—See Plutarch.

The cause most be very commendable and just, and clearly founded in the word of God, ere a man can be esteemed a martyr for suffering in it: see Rathillet's death alibi; as to pretended constancy in dying, of Servetus and others of the Devil's martyrs, *Non poena sed causa facit martyrem*, (Cyprian,) *et schisma vix martyrio eluitur*; and a martyr ought to have a clear call and a humble frame and preparation of spirit, and knowledge what he dyes for.—See the other octavo Manuscript, page 194 et sequentibus. Vide infra of 2 weemen execut for this same cause, page 13; and Alexander Hamilton's case ther.

In November 1680, we had the accompt of a most dreadfull earthquake at Malaga in Spain, (our colder climate is fortunatly free of such,) which made terrible demolitions and devaftations, the ground opening and fwallowing up al about it, and particularly a river, which afterwards it cast out with so great violence, that it made ane inundation.

In November 1680, Mr. James Lundie, on of the principall Ministers of Edinburgh, removed himselfe to Dalkeith, whither he got a call, which I mark as extraordinary, for to leive a better stipend to goe to a much leaner; their ware fundrie conjectures about it, some thought the Bisshop was displeased with the freedomes he fundry tymes used. On his removeall was advanced, in Februar 1681, on Mr. Ro<sup>t</sup> Bruce, minister at Auldeir; in this different from the great Mr. Ro<sup>t</sup> Bruce, in King James the VI tyme, that this Mr. Ro<sup>t</sup> is for the hight of Episcopacie, which the old Mr. Ro<sup>t</sup> strugled much against.

P. 6. Supra page 4 in princ: we have seen the Commons disappointed in ther designe of disinheriting the D. of York, now they fall upon other methods for securing the Protestant religion, as, that ane bond of association be entered into for preserving our King's life and our religion; of

which see more in the other Manuscript in 8vo. page 181 ; and 2do. That the a&t excepting and frieng the D. of York from taking the oaths of alledgeance, supremacy, and declaration, be repealed. See of this in my law Manuscript in folio, 4to Dec<sup>re</sup> 1679, page 99. 3to. That the poft office, Portsmouth, and the fleet be taken out of the said Duke's hands, and his gift to be Admiral of England declared null. 4to. Ane addresse, that George Earl of Hallifax (who very lately was the great idol of the Commons, but had now deserted them, and ftept afyde to dine with his Majesty) be removed from the King's Councells for ever. The King's answer to this laft was a discreet refusal, but if they would impeach him, or any other of his Councell, for any cryme, he shoule not hinder the course of justice against them. See the following page, and page 9 in calce.

On the 3d of December 1680, on Dryfdall, a weaver, affaulted on of his Majestie's guard called Masterton, about Kirkliston, railing upon him as on of them that was accessory to the murdering of the people of God, and particularly of James Skeen and theſſe other innocent persons who had suffered tuo dayes before, and he wounded him with a ſword ; wheirupon the trouper perſhuing him, did at laſt apprehend him and bring him in prisoner to Edinburgh, wheir he feingied himſelf to be diftra&ted. See the Edenborouſh Weeklie Gazet.

On the 6th of December 1680, dyed Aeneas Lord Macdonald, a bold man, and a great oppoſer of Argyle's, and defender of the Maclean's in-tereſt, and who had a great influence and command in the Hylands, though his private eſtate was very low, only he was popiſh, which made the Duke of Y. regrate his death the more. Vide infra, page 8, Aboyne's death.

About the 12, 14 of December, and for ſundry dayes therafter, a formi-able comet appeared at Edinburgh, and was ſeen in many other places. It arose in the weſt from a ſmall ſtar appearing a little after day light was gone,

and moved northward, and sent out a prodigious long taill, greater then any that had been observed for thesse many 100 years. Some doubted if it was a comet, (it was a reall comet) but called it that meteor which goes under the name of Trabs or Columna; however it was red, and interpreted by every on according to ther severall jealoufies and interests. Generally comets are thought to portend war, desolation, blood, ruine, conversions of states, catastrophes of kingdomes, deaths of great men, sterilities, famines, plagues, &c.; and in respect of the present fears of confusions and disorders, each applyed it as he pleased. Some said, you banish, confine, and imprison our preachers, but ther is a preacher sent from Heaven, who is without the reach of malice. Rushworth in his Histori-call Collections, in anno 1618 page 8, tells of a great comet appeared in that year 1618, wheirupon enshued, first, the Bohemian wars, then P. 7. the German and Swedish, &c. Doctor Bainbridge observed it to be verticall to London, and to passe over it in the morning, so it gave England and Scotland in ther civill wars a sad wype with its taill. They seldom shine in wain, though they proceed from exhalations and other naturall causes. See Lucan's description of that comet, which appeared before the civill wars betwixt Cæsar and Pompey, *de bello Pharsalico libro*. See *infra* this same page, and *infra* page 39 in principio.

In the beginning of December 1680, Howard Viscount Stafford, one of the 4, 5 popish lords imprisoned in the Tower, being accused in name of the Commons of England before the House of Lords, and the Lord Chancellor nominate by Stewart for that effect, after a fair tryall of 5 dayes, and a probation by Oats, Dugdale, Turberville, and others, that he was present at consults wher the King's death was proposed, and that he had offered Turberville 1500 lb. sterlinc to kill his Majesty; the Lords, by the plurality of votes, found him guilty of treason, though every overt individual act was not proven by 2 concurring witnessses, for they judged it eneugh that the witnessses agreed on treasonable acts in the generall, and each of them de-

poned on speciall deids though they ware severall ones, which admicula-  
tive probation, Cavalcanus and other Lawyers approve of in crimine læse  
majestatis; and therfor, he was condemned to be headed on the 29th  
day of December 1680, which was accordingly done at Towerhil on that  
day. See his printed speach, apud me. The Chancelor in his speach to  
him hath this expression, that the Plot was now clearly made out and  
proven beyond all contradiction and doubt; which is a great conviction  
of its reality, this flowing from him who was no hearty encourager of the  
discoverie of this Plot. It is reported this V. Stafford had been only a  
filly man, and exceeding vicious. See animadverfions on his speach in my  
4 Manuscript marked A 3, page 22. I find 55 Lords of the House of  
Peers voted him guilty upon ther honor, and 31 not guilty: the Bischops  
abftained from voting. See his printed tryall. Vide of Turberville, infra  
page 21.

In prosecution of what we spoke *supra*, in the præceeding page, of co-  
mets, the place and situation thereof is much questioned; of old it was  
thought by Ariftotle and others, they did not aschend above the third  
region of the air, but ware generat ther with other meteors, and the  
learned Julius Scaliger hath interpolat and defended this opinion, but,  
however eminent he was in other knowledge, it appears from his disputa-  
tions against Cardan, he was no great astronomer nor mathematician: now  
commonly Tycho Brache, Galileo, and others, they place comets above the  
sun and other planets in *cœlo 8vo.*, because they find they have no parallax-  
es for the most part. See this noted in another manuscript, page 67. As  
to the effects, prognosticks, and significations therof, some will allow them  
none at all, because, forsooth, during all the reigne of Nero, comets ap-  
peared very frequent at Rome; so the people concluded the figne gave  
them hopes that the tyrant should shortly be cut of, and when he was  
killed ther was no comet at all appearing. But this is only a particular  
instance, and the effects of thir fatall and ominous stars doe not follow

immediatly; some think it takes as many years to operate as it appears nights. Others will only have them to be the fore-runners of evill, but ther is no reason to restric ther influence solely to malignity. For, if that was a comet which appeared to the 3 wise men, and directed them to Christ's cradle, (as some learned men, viz. Grotius in his annotations on the 2d of Mathew, will have that ffar to be on,) sure I am it portended the greatest good that ever happened to poor mortalls. It is true, that sad comet which hung over Jerusalem by the space of a year before Titus Vespafian took it, in the forme of a bloody fword, pointed out fearfull desolation approaching to thesse stubborn Jews; yet it had on good signification, that the glorious Gospell was to propagat and spred from thence P. 8. to all the Gentile world, which immediatly followed. Josephus and others tell of strange prodigies ware seen in the air and the earth before the destruction of Jerusalem, as armies of cavalry and infantry drawn up, voices in the temple, the door locked opening of its oun accord, a man crying to them to depart, and no whipping would hinder him. Which minds me, before the German wars by Gustavus, Mr. Clark and others tell, besyde the comet mentioned supra page 6th, ther ware direfull accidents, showers of blood, a child borne at Magdeburg with head peice and all other armor of flesch, weemen cutting breed, blood gusheth out, &c. (See prodigious signes in the 2d of the Maccabees, cap. 5, v. 2, and 3, item, cap. 3, v. 24, cap. 10, commate 29, cap. xj. v. 8.) See many other terrible prodigies in Germany, marked by Clark in his Generall Martyrologie, page 219 et sequente. I have seen a printed book anent a great comet appeared in Scotland in December 1652. Christ, in the 24 of Mathew, v. 29, tells us there shall be signes and wonders in the heavens, so they are not altogither accidentall, though we are not to rely to much on them, for God forbids that by the prophet, I will make the diviners mad, which was to fortify the Jews against the poison of the Chaldeans, who were miserably addicte to this curious wain judicall astrologie; see

Howards Defensative against the poison of pretended Prophecies. It is a true Latin proverb, *Sapiens dominabitur astris, and esto, that Astra regunt horas*, which may be denyed as to our minds and wills, except in so far as they are organically influenced by our bodies, yet *Regit astra Deus*. Ricciolus, in his *Almagestum Magnum* hath described all the comets ever were heard of before his tyme; but I dare say, thesse 3000 years, ther was not a comet seen with such a long ray, and prodigious byfome and taill, as this present on is, which is near 3000 miles in longitude. See our Weekly Gazette for this, making it 60 degrees, and each degree is 60 miles. Some affirme that comet in Germany in 1618 had its taill 90 degrees long, which, if true, is 30 degrees longer than this.

The learned preacher to the learnedst auditory in England, the Innes of Court, Mr. Gataker, wryting against that impostor Lillie, the astrologue, he reasons why that great ecclypse of the sun in 1652, which occasioned a darkness for a whille, could have no signification, for it is all on in nature whither the solar ecclypse happen by intervention of the moon or of the earth; now every 24 howers the earth interposes betwixt the sun and us, and the night makes a greater and more totall ecclypse then any occasioned by the moon's intervention, (I doe not speake of that supernaturall ecclypse at Christ's paffion,) and yet no man counts this ecclypse ominous, but sleeps quietly till the sun's refreshing beams bring back the day again: see Observes from Mr. Gataker, upon lots and chance games, alibi in a quarto manuscript, page 43. Some make the rise of comets to be occasioned by the concurrence of 2 fixed stars, wheir the on falls out of its oun cycle, orbe, or vortex (to speak in Cartesius words) unto that of another star, and its strength and influence is theirby dissipated, absorbed, and fucked up, and the brightnesse of it spendes itself in that taill we observe the comets to have. Of comets see Mr. D'Avity, discoursing very largely in the *Introduction to his Monde Universelle*, page 101 et seq.: vide infra, the effects of it, page 20. Sin and securitie abounding in

Scotland are sadder and surer prognosticks of blood and desolation then any comet can be, which, by no astronomicall or natural efficiency, can portend or signifie such things, farder, then the air infected by it may occasion sterility, pestilential diseases, and famine.

About this tyme dyed Gordon, Earle of Aboyne, a man of much naturall sharpnes and a very good poet; was popish, but made a faint profession of being converted to the reformed religion. Vide supra, page 6, Macdonald's death.

On the 26 of December 1680, being Christmas day, some of the schollars P. 9. of the Colledge of Edinburgh having contributed together for the making ane effigies and image of the Pope, they entred in a bond and combination to burne him after a solemne proceßion on Yuille day, and gave oaths on to another for the secrecy of it; yet it came abroad, and a Councell being called on the 24 of December, at night, for preventing it, they ordered the Kings forces to be brought within the City of Edinburgh to oppose it, and seized on some English boyes of the name of Gray and others, the next morning in thair beds, and imprisoned thame. Yet all this did not divert the designe, but, by a witty stratagem, the boyes carried a portrait to the Castlehil, (as if this blind had been the true on, and they had intended to carry it in proceßion doun the streets, and performe ther ceremony and pageantrie in the Abbey Court over against the Duke of Albanies windows,) which made all the forces draw up at the West Bow head, and in the Graffe Mercat, leift the boyes should escape by coming doun the South Back of the Castle, and thus having stopped all avenues as they thought, thir boyes escaped by running doun vennells leading to the North Loch side, and other boyes carried the true effigies from the Grammar Schooll yeard to the head of Blackfreis Wind, and that on the Hy-Street, first clodded the picture with dirt, and then set fyre to the pouder within the trunk of his body, and so departed. This was highlie resented by some as ane inhospitall affront, designed to the Duke of York, (though

it was only to his religion and not to himselfe,) being a stranger among us, (though he be descended of Scots blood,) and that it was but ane aperie of the London apprentices, who had done the like before, and that it opened the Papists' mouths to call us cruell. But what the boyes did in shew, the Papists ware wont to do to us as hæreticks in reality ; and some thought boyes might as well sport themselfes with this, as minifters in the pulpit affirme the Popes to have been bougerers, hæreticks, adulterers, forcerers, sodomites, &c. ; the punishment wherof by all laws is Vivi com-burium, burning alive ;—and it was a compensation for his excommunicating all Protestants yearly on this day. In summe, it was a childifh folly, and scarce deserved fo much notice should have been taken of it. I find in John Knox his Cronicle, book 1, in 1555, page 103 and 104, on of the beginings of the Reformation of Religion then was by burning St. Giles image in Edenbrugh, and a 2d being made, it was wrung out of the preift's hands and broken in peices. See a printed Apologie for this fact of the Students, in a 4to manuscript marked A 3. pag. 23. Vide infra, page 26.

For a farder teftimony and bravado, the scool boyes, with the apprentices to merchands, trades, and wryters, with other fervants, got all the badge of blew ribbands in ther hats, with thir words embroidered on them : 'No Pope,' 'no Preift,' 'no Bishop,' 'no Atheift ;' fome of the Epifcopall and Court party have in opposition got rid ribbands, with this engraven, 'I am no Phanatick,' as if all who declare againft popery ware phanaticks ; this minds me of the old quarrell of Cavaleer and Round head, and betwixt the Guelfs for the Pope, and the Gibelins for the Emperor. Vide infra, page 11, anent the burning of Preiftfeild. Vide infra, page 28. I hear the watermen and apprentices of London, in this far have imitat us, (though otherwayes they disdaine us,) that they have all got up the blew ribbon with 'No Pope' woven on it. In the 15 of Numbers, v. 38, God appoints the Israelites to wear a blew ribbon.

About the same tyme, a hypocondriack fellow was imprisoned in the Canongate, for teaching that the day of Judgement was to be the nixt day, and offered himselfe willing to be hanged, if what he averred should prove false. See in my former manuscript in August last, anent the 2 Galileans at Tholouse ; it's page 210. Vide page seq. in fine.

The House of Commons, besydes ther former Addresse to his Majesty, (vide supra, page 6,) which was plain eneugh, they present a new on upon the 21 of December, 1680, in answer to his speach of the 15 of December before ; in which speach, the King had offered to concur with them in all remedies for securing ther religion and property, except the P. 10. diverting the Succession of the Crown out of its naturall channell and course. The Commons in this Addresse, beg his Majesty to depart from that reservation, and to pass ther bill for disinheriting the Duke of York, or any other Papist from aschending the Imperiall Throne ; and entreat him to consider, seing they have growen so numerous under him, how they would encrease if ther be hopes left of a Popish successor, and that all sincere Protestants may resolve to be destroyed, seing the Duke hath promised to forraine Popish Princes, to extirpate all hæreticks so soon as he has power ; and all this whille he hath so influenced his Majesties Coun-cells, that in 1673, the King's resident and agent in Holland presented a memoriall to the States Generall, and pressed them to yeeld to the French King's demand, that the Roman Catholick religion should be publickly establisched throw all thesse provinces, which was a most absurd demand from the Embassador of the King of Brittain, who hath the honor and reputation of being the head of the Protestant interest. Nota, this is in the first Addresse ; then they adde, they intend to debar none of the Royal line but the Duke of York and Papists, but if the King refuse to comply with this ther desire, they advise him to look if he do not provock such a great part of his people to oppose the Duke of York's entry to the Croun, as may endanger the seclusion, not only of the rest of the Royal

line, but even the English monarchy it selfe: which is a dreadful boast that they will erect themselves in a commonwealth; but this would entaill ane everlasting war upon them, as long as any of the Royal line were in being and capacity with forraine help to defturb them, though they should sell ther right, and take it holden as a feudatory Croun of the French King, and when they ware lately reared in a republick, they naturally flid back again unto a monarchy. Then follows ane advise to his Majesty, that none be put in places of judicator, magistracy, governement, or military trufts, but such as are of knownen integrity and affection to the Protestant religion, and that they be secured theirof, Quam diu se bene gesserint; and complains, that, by the Duke of York's power, honest men have been turned out of ther offices, and men of knownen principles for Popery and Arbitrary government invested in ther roume, and concludes, thesse things being granted, they will supply his Majesties necessity for Tangier, and all his other concernes in forraine alliances, &c. This is a severe and shrewd paper, and some marvelled at the King's patience; (see the 4to manuscript, marked A, page 18,) the King is of a better nature then many other princes have been, who were jealous of ther brether, and always suspe&cted the nixt successor to the Croun, and ware willing to deprefse them, being angry to see the rising fun so much worshipped. Upon the back of this addresse followed the Earle of Shaftesburies speach in the House of Peers, in his Majesties oun hearing, riping up the faults of the King's governement with more plainnesse then any ever yet did; and in effect, resolved in this, that the people of England had been so oft cheated, they would not trust the King's promises, nor give him money till first he performed what they desired of him, viz. to quite his Popish quean, Popish brother, his whoores, his councellors and his new convert, and cast himself in his peoples armes, change his court and principles, and once be himselfe. See it at large. Schafteburie refused part of this printed speach to be his; and it was brunt by the hand of the hangmen.

Many other things at this tyme concurred to fright us, as a vifion  
seen by a countryman called Zuille; while he was wondring at the comet,  
he saw a fyre deschend from the Castle doun the city of Edinburgh to  
the Abbey, and then he heard a voice saying, 'This is the fword of the  
Lord,' and other things which he would not utter: it was on Charles  
Gray a merchand in Edinburgh, saw this fire, but Zuille heard the voice.  
On in a souldiers apparell comes to Sir George Monro at mid day in the  
streets, and bids him goe doun and tell the Duke of York. If he did not  
P. 11. councell his brother the King to extirpate the Papists, both the King and  
he were dead men; and Sir Geo. turning about to call some witnesses,  
the man in a sudden retired he knew not whither; like the admonition  
given to our King James the IV. before he went to Flouden, wher he  
was killed,—the old man evanishing, tho diligent search was made after  
him: see Buchanan and others for this. Vide pag. 9 *supra*, anent the  
prophecy that Doomsday was the morrow. We had accompt of strange  
vifions and apparitions seen in Germany, like theffe which the country  
peopple obſerved befor the laſt great war. (See *le Journal des Scavans*, of  
the year 1665, printed in 1666, page 170.) It is an old obſervation of the  
excellent historian Philip de Comines, that the English nation is ſuperſti-  
tiously fond of apparitions, vifions, prophecies, and wonders.

## ANNUS 1681.

ON of the first things we heard at the entry of this new year, was of the death of Mr. John Welsh, on of the eminent Conventicle hill preachers in Scotland: he had been the occasion of seducing many people away from the orderly governement of the Church; he was both in the insurrections at Pantland lands and Bothuelbridge, but was not so grosse as wholly to difoune the King with Camron in the proclamation at Sanquhar in June laft, or to excommunicat him with Cargil in September laft, tho he was a great enemy to the Bishops; as his Grandfather of the same name in the reigne of James the VI. was, and was banished for it, and lived in France, and see ftrange things of him, both in the preface of his book called Popery Anatomized, and in the Status Eccleſiae Gallicanæ, or the Eccleſiaſticall Historie of France, page : So that this Mr. John Welsh, his grandchild, in comparison of theſſe other hotheads, may paſſe for a soberer man. He dyed at London. Ther is but a ſmall remnant of theſſe disorderlie minifters now left, unleſſe a new fleece arife to oune the ſame principles.

10 Januarij 1680-81. The King, being very exceedingly displeased P. 12. with the House of Commons, who would yeeld to nothing except the King paſſed the bill ſecluding his Brothir from the croun, and rejected all other remedies propoſed, both as iſſufficient to heal and as dangerous, he prorogued them to the 20 of Januar; which put that bill, and all others unpaſſed, quite of the hinges, and out of doors. Some thought it had only been to give them occaſion to bring in the bill of new, ſince, by ther

custome, a bill rejected cannot agane be presented that Session of Parliament, but the event disproved this. It was observed, that the same day wheiron the King had prorogued this Parliament, viz. the 10 of Januar, his Father in the year 1642-3 deserted his city of London, and the Parliament then sitting at Westminster, which was the beginning of all his troubles, for he never entered London after that till he was brought prisoner ther; tho ther be litle fatality in observing dayes, yet the giving rise to such odious parallels may be shunned.

The King, during the prorogue, not being able to please them, on the 18 of Januar he brook of capitulation with them, and by his proclamation, intimated throw London by sound of trumpet, he dissolved the Parliament. It bears, he was resolved to meet his people in frequent Parliaments, and therfor he promises under his great seall to issue furth writs for calling another to meit on the 21 of March nixt at Oxford. The changeing the place was a check to the factious and tumultuary humor of the Londoners; yet it made them remember that the King's father, as a counterpoize to the long Parliament, which sat at Lundon, he, in Januar 1643-4, called a Parliament at the same city of Oxford, but without any prosperous successe. However the abatement of profit in removeall of the Parliament, made fundry of the Londoners relent somewhat in ther heat against the Court party, and willing to faune and doe mean things if the Parliament might be brought again to them. See Baker's and other English Chronicles, and the book called the Civill Wars of Brittain, chapter 37, page 64, and cap. 52, page 100.

Monmouth, Shaftesburie, and ij others, made ane addresse to the King, requesting the new Parliament might meit at Lundon, representing the Parliaments held at Oxford by the King's father, and others the Kings of England, had always been unfortunat, and that the members of Parliament would not think themselves secure except in London. See this paper, and the answer of it, besyde me. King Charles the I. had also in

the year 1625 and [1644] a Parliament at Oxford, but he found the members no more tractable their then at London. Some boasted and others feared the House of Commons should not have obeyed the King's dissolution so peaceably as they did; but whatever violence they shew when met in a parliamentary capacity, they are more warie and circumspect and slow in ther hot proceidings then Scotsmen are when once awakened; and are not so suddenly blowen up with groundlesse fears and causeles jealoufies of poperie and arbitrarie governement. Vide infra, page 16, anent the Oxford Parliament.

11 Januarij 1680-1. The manfion house of Preiftfeild, besyde Edenbrough, belonging to S. James Dick provest of Edinburgh, was in this evening, about 7 or 8 a cloak, brunt, whither by casuall accident and negligence, or designedly by praecogitat malice, could not weill be determined. The Provest had frequentlie said, he would take doune his houfe and rebuild it. Some jealoused the scooll boyes at the Colledge, because he had imprisoned some of them for ther frolique of burning the Pope, (de quo supra, folio præcedente,) and some of them had threatened to pull doune his house. Others thought this suspition not weel grounded, nather the malice, wit, conduct, nor contrivance of lads amounting to fyre raifing. See the Councell's proclamation anent it. Of the præsumption Mina-rum præcedentium et damni secuti, see the criminal lawyers, requiring they be malæ famæ, and such qui minas exequi soliti sunt; and the forsaid præsumption of damnum minas subsequens, takes mainly place in malefices committed by witches. Some said the Privy Councell, in ther tryall, ware not so exact as they shoud have been, for the scrutiny that would best have expiscated the manner, was to have examined the Provest, his Ladie, ther servants and tennents, wheir the keyes, when ther was fyre last put on, and who was most lately their, &c.: which was not done; but a number of school boyes called, who declared they knew nothing of it till it was brunt. Yet the Privy Councell thought fit, by a proclamation

in print, to shut up the Colledge of Edinburgh, and banish the boys 15 miles, unlesse ther parents found caution for ther good behavior; which made some cry out, Shall the succeeding generation be starved of good learning, because in a Protestant countrey the children in mockerie brant the Pope? Others added, that Julian the Apoftat thought it the most effectual method to suppres Chrifianity to shut up ther schools. (See Hermanus Latherg. de Cenu, libro 1º. cap. 1, pag. 150 et seqq. ; item libro 3, cap. 19, pag. 967, et sequentibus; Joannes Casus de Sphaera Civitatis, seu Republica, libro 5, cap. 11, pag. 375.) It was furmised, this interdict put upon the Colledge was in part designed by the Bifchop of Edinburgh to get out Mr. A. Cant from being Primar, and to get in Mr. Robert Paterson, his brother, unto that place. Some asked, If the Councells interdi& could be justified to shut up a colledge erected by a king, with priviledges, and 100 years in posfeffion theirof, and ratified in severall Parliaments, and wheirof the toun of Edinburgh ware patrons, without ther consent, on small and frivilous jealousies and suspicions. Theirafter, the Colledge was again opened with conditions; which see alibi, in the manuscript marked E, at the firſt of Februar 1681, pag. 182.

P. 13. 26 Januarij 1681. Ther ware hanged at Edinburgh 2 weemen of ordinarie rank, for ther uttering treasonable words, and other principles and opinions contrare to all our governement; the on was called Janet Alifon, a Perth woman, the other Harvy, from Borrowſtowneſſe; they ware of Cameron's faction, bigot and fworne ennemis to the King and the Bifchops; of the fame ſtamp with Rathillet, Skeen, Stewart, and Potter; of whom, ſupra page 4, et seq., wher we debate how far men (for weemen are ſcarce to be honored with that martyrdome, as they think it) are to be punished capitally for ther bare perverse judgement without a&ting. Some thought, the threatning to droun them privatly in the North Loch, without giving them the credit of a publick ſuffering, would have more effectually reclaimed them nor any arguments which

ware used; and the bringing them to a scaffold but diffeminats the infection. However, thir weemen proved verie obftinat, and for all the pains taken would not once acknowledge the King to be ther lawfull prince, but called him a perjured bloody man. At the ftage, they told, fo long as they followed and heard the curats, they ware fwearers, fabbath-breakers, and with much averfion red the Scriptures, but found much joy upon hir spirit fince fhee followed the conventicle preachers. Ther ware 5 other miserable weemen executed with them for infant murder. See my folio law manuscript, 17 and 18 Januarij 1681, page 180. See with what wonderfull patience most execrable hæreticks fuffer, in Baker's Cronicle, in the reign of K. Henry the 2d page 58, and of Henry the 3d page 89.

23 and 25 Januarij 1681. Alexander Hamilton and Trotter of Morton-hall, questioned at Privy Councell for exprefſions feeming to refiect on the governement. See my folio law manuscript farthir at the faids dayes, page 181. Vide ſupra, page 5, *Siquis imperatori maledixerit, &c.*

About this tyme, we heard the Earle of Eglington had killed the poftmaster of Doncaſter, in England, in the poftmaster's ounē house, being transported with drink and paſſion at ſome ſlight provocation given him by the ſaid poftmaster. His unckle the Duke of Rothes did intercede with the King for a remiſſion to him.

This year 1681, the 30 of Januar falling on a Sunday, the commemoration of the King's father's murder was deferred till the next day. See my 8vo. manuſcript of Session occurrents, page 45 et ſequente.

3 Februarij 1681. The Duke of York parted about 7 a'cloak in the morning from the Abbey to goe for Stirling to ſee the Castle and the ſtrong paſſes on the river of Forth; and in regard of the preparations the Earles of Argile, Mar, and Lithgow had made for him, and not to diſappoint them, he was not interrupted from going by a great ſtorme of ſnow, had fallen 2 dayes before, in greater quantities then ever I had obſerved in fo ſhort a ſpace, tho the ſtorme in the winter 1674 laſted longer. He

stayed not long, for he returned on the 5th of Februar in the afternoon. See the account of this progress in print.

P. 14. Upon dissolving of the English Parliament, severall of the councellors left the Councell board, and the King put the Earle of Sunderland from his place as principall Secretarie of State ; and, on the 2d of Februar 1681, installed the Earle of Convay theirin. Sunderland had been one of them who, in the last Parliament, had appeared against the Duke of York ; but theirafter Sunderland, in 1683, made his peace ; and on Convayes dimission he was again reponed to be Secretary, by the Dutcheffe of Portmouth's power with the King, somewhat against York's will.

In Februar 1681, Generall Dalzeel executed much severity against one of his poor shoulders for stealing a pair of pistols out of the magazine ; he caused shoot him to death. Another, being sentinel at one of the gates of the Abbey, was found lying sleeping when the Duke of York passed, Dalzeel caused sentence him in a court martial to be shot ; and for that purpose he was carried to Leith Links, and when all was ready, the Duke of York interceded for his life, and obtained it. Some exclaimed on this Muscovian rigour as too severe in tyme of peace, and that the rigour of discipline was not absolutly necessarie, save tempore belli, or in a garrison and besieged town ; others called them wholesome examples to represe the naturall insolency and luxuriancy of fogers. See Voet. de Jure Militari.

On the 21 of Februar 1681, ther ware brought in from Borrowstounnesse a company of distracted men and women (for I know not what other name to give them) ; they called themselves the only true saints, declared for Cargil's covenant, had a napkin dipt in the blood of Stewart and Potter, who ware hanged and headed on the 1 of December last, (supra page 4,) and weaved it in ther prayers before the Lord, crying for vengeance on the murderers ; and in this furious posture, worse than quakers and enthusiasts, run up and downe that town, disouned the King and all government, and followed a failer named Gib, who had now assumed the name of

King Soloman, (for they, inftead of ther former names, take names out of the Old Testament, as Abram, &c.) : [And such as have] husbands, not of ther ounē opinion, they are so far from conversing with them that they will not suffer them to touch them, and if any doe, they wash the place as having contracted impurity, like the Jewish ceremoniall uncleannessse, with 100 such fopperies. See the following page.

In the end of Februar 1681, we heard that of 4 lyons in the tower 3 of them dyed, and the lyon remaining was that which was designed the Duke of York's lyon, wheiron every on made ther observe. As to the age of lions, see Plinius' Natural Historie, lib. . cap. . Some of the pamphlets printed against the Duke of Monmouth, in mockery defired him to go and give a demonstration of the legittimatnes of this birth, by approaching the lyons in the tower, who certainly would lick the hand of a prince of the blood royal, and would stoop to on who had the lyon on his syde from his birth, and offer no violence. And why might not he try this experimēnt as weell as his sifter, Madam Fanshaw, [who] had cured on of the Kings evill, by touching and using the words which his Majesty does.

ij Martij 1681. Ther ware 3 persons hanged at the Graffemarkat of P. 15. Edinburgh, for disouning the King's authority, and adhæring to Cargil's covenant, declaration, and excommunication, and thinking it lawfull to kill the King and his Judges. See the præceeding page anent thesse from Borrowstouneness. Ther names ware Gogar, Millar, and Sangster ; if they would but have acknowledged his Majestie, they would have been pardoned; yea, when they ware upon the scaffold, the Earle of Roscommons, by a privy warrant from the Duke of York, came and offered them ther lives, if they would but say, God save the King ; but they refused to doe it, tho Daniel wishes Nebuchadnezar and Darius, heathen kings, to live for ever. See the chapter of the book of Baruch, v. ij. wher the Jews in ther captivity pray for the peace and prosperity of the kings of Babylon ; and it is undoubtedly every Christians duety to pray for all Kings, I

Timothy, 2 chapter, v. 1 and 2. To refuse the pardoning ther enemies was to dy in much malice and unmortified rankor, as appears by Gogar's printed speach. Yet some thought it sad to dispatch men away to the other world in such a spirituall madneffe and religious melancoly, who rushed upon death and ware wain of suffering, and from whose boldneffe in dying (as if it had come from the immediate divine affistance) other simple peopple, as Hydra's head, and Cadmus teeth sownen, ware profelyted, at leift ware hardened and confirmed in ther error; and that it would have been better to have kept them in bonds as madmen, or to have employed physitians to use ther skill upon them as on hypocondriack persones. *Nam furiosus homicida non est morte plectendus satis enim ipso furore multatur*, c. 14. D. de officio præfidis. About 8 dayes before this, they had stollen away 2 of the heads, which stood on the West Port of Edinburgh, viz.: Stewart's and Potter's; the criminal Lords, to supply that want, ordained 2 of thir criminall's heads to be struck off and to be affixed in ther place. Ther was a 4th condemned with them for these same principles, called Murray, but he was prevailed on to give in a petition to the Privy Counsell disouning the doctrine of killing Kings, or rising in armes against them, (only he qualified it with this exception, unlesse it was in selfe defence,) and acknowledged the King supreame in all civill matters, but not in ecclesiasticks, which, tho contrarie to law, yet so far prevailed as to obtaine a reprivall to him of his life. Vide infra, more of thir people, page 25.

Against defending the true religion with armes, see ane excellent citation from Lactantius, libro 5 Divinarum Institut., de Justiciâ, cap. 20; adduced by Camerarius, tomo 1 Meditationum Historicarum, cap. 40, pa. 179. See anent this more alibi, from Tertullian, Grotius, &c. in a 4to manuscript, marked A 1. page 91. As to the praying for usurping powers, see Gee's right of Magistracy, who thinks it unlawful, and answers thir texts, page 304 and 334.

13 Martij 1681. Dyed suddenly at Edinburgh, Dr. Archbald Turner, on of the minifters ther, a man of a ready wit and good parts. He was buried, at his ounē defire, under the elder's desk, in his ounē parish church, called the Old Kirk, (which ſome thought ſuperstitious), and his comeraſ, Mr. John Robertson preached his funeral fermon. The Toune Councell advanced Mr. Alexander Ramsay, on of ther 2d minifters, unto his place; and in roume of Mr. Ramsay they called back to officiat as 2d miniftier in the Greyfriers Church, Mr. Alexander Malcolme, miniftier at Newbottle, who had been once a miniftier of Edinburgh before.

Supra page 12, we ſee the King calls a new Parliament to meet at P. 16. Oxford the 21 of March; accordingly they conveen that day, moft of the elections and members being the ſame who ſerved in former Parliaments; the wholle number of the house, (as I ſaw by the lift,) being 513, and of which ther ware 404-405 that ware members of the former, and re-elected of new, ſo that ther ware 108-9 changed, and even few of thir ware on the Court's fyde. See the King's ſpeech to them, apud me, in print; it is ſpoken in a very free diale&t. The House of Commons re-ele&t the ſame perſone to be ther ſpeaker, who was ther mouth in the former Parliament, viz. Mr. William Williams, (vide ſup. page 2,) who told the King in his ſpeech to him, that the Commons of England, to give a demonstration they ware not for changes, had re-elected him for ther Speaker, which was ambiguous, (like the canons of the synod of Trent, made to please both parties,) ather to anſwer the King's defire, that no change be made in the laws of Church and State, or to tell they mind not to change ther principles nor actings they had in the laſt Parliament which ſate at Westminſter. The King all alongſt, in his ſpeech, never calls it the Protestant religion, but the religion in generall in opposition to Poperie, which he mentions as alſo the conſigning the governement in Protestant hands in caife of a Popiſh ſucceſſor. After the præliminaries ware over, they fall to examine why the Bill reſchinding the firſt A&t made in the 35 year of Q. Elizabeth againſt

Protestant dissenters (which in the last Parliament was passed both the Houses) was not, before the prorogation and dissolution, presented to his Majesty, that it might have obtained the royall assent; yet, in fine of that a&t it appears to be only temporarie and expired, and acts reviving it since are of the same nature. It was ane A&t taking of the edge of the penal statutes against non-conformists, being a comprehension and toleration to Presbyterians, Independents, and Anabaptists, (and some say to Quakers, Arminians, Socinians, &c.,) but excluded all Papists, and intended to banish the principall Papists, under which generality the D. of Y. would also fall. It is observable, almost none of the English nobility (even of the King's party), and few of ther gentry, came to visit the D. of York during his abode in Scotland, for fear of offending the other faction; only it was reported, Roger L'Estrange, the licencer of the presse, was heir with the Duke incognito; but on Shaftesburie's imprisonment, sundrie then came to see the Duke, as Sir Joseph Williamson, &c.

Advertisement was also given to the Members of Parliament, and ther attendants, to take heed to ther pockets, for it was designed to drop treasonable papers in them at Oxford, that therupon they might ground false accusations against them. It was made out by probation against Gaven, the Jesuit, who had suffered for the plot about 2 years ago, that tho he dyed obtesting his innocence, (see the Animadversions on the Viscount Stafford's speach on the scaffold, in my 4to manuscript, marked A 3, page 22,) yet he had affirmed to a gentlewoman, the Quean might lawfully kill the King, because he had disloyally abused her bed with adultery.

The Commons sent up ane impeachment to the Lords of Edward Fitzharris, as guilty of the Popish plot of murdering the King; the Peers, by plurality, rejected it, because, before ther doun fitting, he was standing alreadie indyted before the Lord Chief Justice. Monmouth, and 18 other Lords, gave in a protestation, in writ, subscryved by them, shewing this was Denegare justiciam Populo Anglicano. The house referred them to

prosecute him at the common courts of justice, wher his accusation was already depending. I have seen his deposition and narrative in print, taken before Clayton and Treby; wheirin he confirmes T. Oat's discovery of the design of introducing Popery and arbitrary power into England, and killing his Majesty as the readiest means for it; and that the Marquis de Montecuculi, the Duke of Modena's embassador, offered him 10,000<sup>lb.</sup> sterling to kill the King; and he declining it, the Marquis told him, that the Dutcheffe Mazarini understood the art of poisoning, and it was easie to dispatch the King by a pouder, when he should come to see her; and that the Duke of Y. knew of this designe; and that a Priest told him he was on of them who had murdered Sir Edmondbury Godfrey, and which was consulted at Windsor, &c.

In this Parliament, a motion was made in the Commons' house, by the King's party, as ane expedient instead of the bill of seclusion of the D. of York, that in caise of a Popish successor, (who should retain the title of King,) the nixt air of the croun, being Protestant, should be Regent of the realme, and administrat till religion war fully secured. This motion was hudibrazed by the country partie; for what if the Regent ware a child, then the regent behooved to have a Protector also. And when the King's late army was up, the most part of all the officers ware Popish, as thosse whom his Majesty trusted most.

In regard the King, in his speach, had refle&ted on the last House of Commons, this House ware intending to passe a vote vindicating, approving, and justifyeng all that the last had done. This, and the want of hopes and expectation of any supplie or other good from this Parliament, moved his Majesty, on the 28 of March, that same day 8 dayes they sate doun, to dissolve them, without mentioning the calling any new one; this being the third, fince he had disbanded, at the Earle of Danbie's desire, (which did not secure him ather), the Long Parliament, which, though become trouble- P. 17. some, yet was far more for his Majesties interest than any that have suc-

ceeded it, every on being worse then the former Parliament which had præceeded them. This last Parliament was so unruly and short, that it may be said of it, as was said of that Roman, “O vigilantem consulem qui toto consulatūs sui tempore ne somnum quidem oculis cæpit!” it had nather ver, nor æstas, autumnus nor hyems in it; and because this Parliament was soon dissolved and melted away, it was in raillery called the Encho to Parliament.

ij Aprilis 1681. The King, in place of Sir William Scrogs, Lord Chief Justice of England, laid afyde, he gave his commiffion to Sir Francis Pemberton to succeed him in that office, and in roume of Judge Dolben, on of the judges of that Court, on Sergeant Street was placed. It was thought thir new entrants had undertaken to condemne Fitzharris, which the former ware scrupulous to doe, (see the preceeding page, item infra, page 19), for fear of being quæstioned in some subsequent Parliament. At the same time, the King published his manifesto or declaration, containing the causes moving him to dissolve the 2 last Parliaments; which see in print. Some think a prince at a losse when he is put to give ane accompt of his actions, or to apologize to his subje&ts. The Justices of peace of Midlesex, and the Grand jury of Bristol, by ther printed addresses, gave his Majesty thanks for this his declaration; and severall others did the like, as the toune and county of Southampton, Windsor, Dover, Norwich, Portsmouth, and many mo.

About the midle of 8 April, dyed [William] Fleming Earle of Wigton, at his house of Cambernald.

This spring, 1681, the contention grew very hot betuen his Holiness the Pope and the King of France, anent the regalities or Jura regalia. The Gallican church did never so implicitly and blindly allow the Papall usurpations as the Spanish, and other churches, did. See the book called the Policie of the Clergie of France against the Protestants, page 59, 60, 63, &c. Craig, our countryman, (Feudorum, page 16 and ,) tells, the

French and Scots Kings would never quite the presentation of benefices to the Pope. The regalities the Pope at present quæstions the French King for, are his presenting young boyes, noblemen, and gentlemen, (who are not so much as in religious orders,) to prælacies, abbacies, &c. as commendators of the fruits contrare to the ecclesiastick canons, and his assuning the wholle fruits of the benefice during the vacancie. See D. Gilbert Burnet's book on this, called the Right of Princes in conferring ecclesiastickall benefices and lands, which hes a collection of many letters of the Pope, and others, passed on this subiect of the regale ; it's printed in 1681. This Pope being Jansenist, they joine with him, and the Jesuits, in opposition to him, syde with the French King against the Pope, and the Sorbonists being Jansenists demurr to ratify the King's a&t. The Bishop of Pamiers, Cerle, his grand vicar, and Arnauld, the Jansenist, and sundry others, joyned with the Pope against the French King, and refused to obey his orders. (See the note of the book called l'Esprit d'Arnaud, in my 4to manuscript, page .)

But the great "cardo controversæ" and encroachment is, the French King hath erected ane Hospital des Invalides, called l'Hospital de Sainte Lazare, and la Salle de Mars, the Hall of Mars, whither all soildiers, wounded and maimed, or passed 60 years, and so rendered unserviceable, doe retire, and ther are entertained most nobly, and want for nothing ; this hath endeared all martiall spirits to him, being a waſt encouragement for them to know of ane honorable retrait, when they are weary, and the best of France are not ashamed to lift themſelues in it. For ther maintenance, the King hath not only doted great revenues of his oun, but also ſuppreſſed sundry convents and monaſteries, and annexed ther patrimony and revenue to theſſe his oun hospitals ; of which the monks and Pope exceedingly complains that monaſteries, confirmed by papall authority, ſhould ſo ſummarily by the King alone be extinguiſhed, and a new religious order erected, (for they are to be tyed to ſome ſuch lyke rules as the Knights of Malta are) without

the Popes approbation and consent. He is now conveining a generall assembly of his clergie, to assert that, sede vacante, he hath right to the fruits of the benefice and to present, and it's wished he may prove another Henry the 8th of England, who, though he retained Popery, yet shook of the Papal yoke of supremacy. (Vide in margine paginæ sequentis.) The French King also inclined to have the Masse and all ther religious offices and services done in the French tongue, and no more in Latin; and convocated a generall assembly of his clergy, to justify his proceedings with the Pope. See ther proceedings, and his edi&t in print, besyde me, declaring the King independent of the Pope in temporalls, and the generall councells being above a Pope, &c. Vide infra, more of this page 33 and 64 in fine.

P. 18. Let not the Papists boast that the Protestant Presbyterian principles are not so loyall as theirs, and that they (though persecuted, and under the pressure of severe poenal laws, and restrained the liberty of their religion in Scotland, England, and Ireland) do not rise in arms against the King's authority, as they doe at Pentland, Bothuelbridge, &c. but submits to the government; for, 1mo, thesse foolish peeple that assume the name of Presbyterians, have unwarily drunk in thesse restles principles from the Jesuites and seminary preists, who have had a hand in all our troubles and blowen the coall. 2do, The Papists have never been a whit more peaceable when touched in ther copiehold: let us but examine ther carriage since the English Reformation. King Henry the 8th, abolishes the Pope's supremacy, suppresses monasteries and abbacies, and allows the use of the Bible in the English tongue; for thir small beginnings I find six severall rebellions and insurrections raised by the Papists and ther preists in the year 1536 & 1537; (see Baker's Cronicle at that year, and our countryman Mr. Gilbert Burnet's History of ther Reformation, that same year, first part, pag. 229 et seq.); and, forsooth, for preserving the King's person too. Their was one of them very famous, called the Holy pilgrimage of grace, wher 40,000 Papists rose in the north, and ther preists went before them

with crucifixes, and banners with Christ's 5 wounds and a chalice ; and they were dissolved at Doncaster. Neither King Edward Sixt nor his sister Elizabeth were secure of their life by their perpetuall plots and conspiracies ; and James miraculously escaped their Gun pouder treason ; and they were the first broachers of the late rebellion against King Charles and main incendiaries, as Du Moulin has proven ; and that same spirit is yet working and fermenting our dissensions ; and shall the world be such foolls as to beleive their oun testimonie that they are peaceable and loyall to governement, and though oppressed, will not rise up by armes, or stratagems to subvert or disquiet it. A Papist quâ Papist cannot be a faithfull subje&t, its absolutely impossible, it implices a contradiction, for he ounes a forraine jurisdic&ion above his prince ; so that, if the Pope command on thing and the King another, he most obey the Pope, especially if his prince be once excommunicated for a heretick, (of which see many things at large in other manuscripts besyde me;) but thir retorffions, You are as guilty as I, leive no convictions behind them, nor make any trophies, and 2 blacks will never amount to a white. I find in Rushworth's Historicall Collections, anno 1640, page 1310, the discoverie of a popish plot against King Charles the I. and the Protestant religion, revealed by Sir William Boswell and Andreas ab Habernfeld, and Monsieur L'Estrange, in his annals of the History of England, shews the reality of the said plot. See him cited by Rushworth, ubi supra, 1326, and he tells, that the Reverend Du Moulin hath 20 years ago in print offered to make good that the Jesuites and Preists carried on the late war and consulted the death of the King, &c. and produces ther letters anent it, yet none of the Papists (so conscious are they of ther guilt) dare to this hower give him the defiance, and put him to verify his word. (See the book called the Policie of the Clergie of France against the Protestants, per totum.)

And does not Doctor Oats in his narrative, cap. tell their ware sundry Jesuites sent into Scotland in 1678, to preach to the people as

discontented presbyterian ministers in the fields, and to stir them up to rebellion ; wherein they prevailed in May 1679, though, by God's blessing, they were dissipated. One of the great arguments used against the Yorkists by them who oppose the Duke of York's succession, is the hazard by it of overturning our religion ; they call them to remember how the English Queen Mary deceived the Protestants with her false promises to the Suffolk gentry at her entry, and to carry their eyes to France, and observe how the French King presently, in 1681, abuses the Hugonots ther, and apply that to themselves when the Duke shall be king ; and yet they have the conference of Poissy, the edict of Nantes, and other clear laws in their favours, with long and immemorial possession as strong as any act of Parliament with us, yet all this is violated and broken to them.

In the Summer of 1681, the Protestants of France were most sadly persecuted and oppressed, (see their petition to their King,) their children were robbed from them to be bred Papists, themselves haled with ropes to hear mass, their university of Sedan taken from them and given to the Jesuits, and many 1000's of them fled the kingdom, but were not permitted to take their goods and fortunes with them ; and all this without any provocation, but, 1mo, to counterbalance the English Popish Plot ; 2do, to shew his impartiality, when he was differing with the Pope, (vide praeced. in calce;) and our King, in September 1681, by a proclamation invited all the persecuted Protestants over to England with large privileges of denization, &c.

P. 19. Supra, page 17, we spoke of Fitzharris' tryal ; for his councell at law he choiced Mr. William Williams, late speaker to the 2 last Houses of Commons, Sir F. Winnington, &c. Their first defence they proposed for him was, that being accused in the name of the people of England by the House of Commons, the affair was so tabled before the Parliament, that no inferior judicatory in England could meddle with it. Answered, the House of Peers had rejected the Endytement, and referred it to the

judges, and the parliament was no more in being, and if a new on should not be called, there was no reason his villany should passe unpunished ; for it was alleged, by the King's party, that Fitzharris was only suborned and bribed by Shaftsbury, &c. to affirme the things contained in his narrative.

All the judges being met and demurred some tyme, at last they repelled and overruled the forsaid dilator, and found the plea not good, and sustained themselfes as judges to his tryall, and ordained him to answer farder against the nixt terme. Theirafter, in May 1681, being adduced as a witnesse by Mr. Mitchell Godfrey, brother to Sir Edmonbury, who was murdered, he deponed that Monsieur De Puy told him, ther was a consult held at Hampton Court, 14 dayes before Sir Edmonbury was killed, wher the Quean, the Duke of York, and the Earl of Danby late tresurer, and on Father Beddinefeld, resolved on Sir Edmonburie's murder, and that he heard Danby, coming doun the stairs, say he would send S. Edm. such ane earand for his officious zeall as he should never returne with ane answer, and should make all his heart ake. Then Shaftsbury craved that Fitzharris might have liberty to depone what he knew of the burning of the city of London by the Papists in 1666 ; which the judges declined on this ground, that it did not relate to S. Edm's. murder, which was the only point anent which he was adduced to declare.

The D. of York was very offended both at the delay of his tryall, and that on standing accused of hy treason himselfe should be admitted to depone, lite pendente, against another ; and then it was made by Shaftsburie's party a defence (as having overreached the judges) that being now on of the King's evidences and witnesses he should be secured and indemnified, and not tryed for his oun life. Vide the nixt page.

About this tyme, in May 1681, Monsieur De Crow, Envoy to the King of Brittain from the Duke of Holstein, being ready to depart from London, was arrested by some merchands, and imprisoned for debt he was

owing them. Of this the Attorney-General made a complaint to the King's Privy Council, as a breach and violation of the privileges of ambassadors and ministers of state, whose persons by the inviolable law of nations are sacred. The Council sent for the creditors, and ordered them to retire their actions against him; which they refusing to do, the Council committed them to Newgate prison and liberate him. It is an affront to the prince whom they represent that their envoys should not pay the debts they contract.

In the end of May 1681, on Macwarish, Macgrath, an Irish papist, deponed before the King's Privy Council, that Sir Edmonbury Godfrey truly hanged himself, and that his brother, Mr. Mitchell Godfrey, employed him to cut him down and convey him to the place where he was found, both to lay it on the Papists, and to save the escheat of his goods, which would have fallen to the King, if his selfe murder had been known. But he had soe ill contrived his perjurie, that immediately a letter of his was seized on, wherein he wrote to the midwife Coliers, that obstinate Papist, what he had deponed against Sir Edmonbury, and desiring her to prepare the rest of the witnesses and have them in readines; upon which suspicion, he was brought back to the Council board again, and, after examination, he confessed all he had deponed was false, and he was suborned and brybed to it by Coliers, and other Papists, whereupon he was committed. As also the Papists put a number of papers, containing treason, in a meal-tub, in a Presbyterian's house, to fix a plot on them. Thir sham plots are made to discredit Oats' discovery.

P. 20. On the 30 of May 1681, (because the 29, the King's birth-day, fell on Sunday,) the Magistrats of Edinburgh made a very solemne appearance on a theater at the Crose, where the Duke of York honored them with his presence, and drunk their Majesties' healths. See the printed narrative of it besyde me.

About this tyme, in the south of Scotland, about Melrose, some three

unhappie miscreants ware apprehended and brunt for bestiality committed with meirs ; it was reported on of them followed after field conventicles ; and they declared they did not think it was a fin, which was a great ignorance of the law of nature. It was strange, what the mother of on of them reported, that fix weeks before shee was delivered of him shee heard him as audibly weep in hir belly as any child cryes and greits after they are borne ; which, as it was a singularity in nature, so he proved ane unnatural monster.

About the 8 or 9 of June 1681, Fitzharris (de quo pagina precedente) was again brought to his tryall, and his Majesties Attorney in particular, infesting against him as the author of a scandalous and treasonable pamphlet against his Majesty and his father and grandfather, incensing and stirring up England to raise in armes ; and wheir, amongs other things, he charges King Charles the I, as he who gave order and commission for the Irish rebellion in 1641, and makes the present king a Papist ; and probation being led against him, it was clearly made out that he had ouned that pamphlet, and that by Everard Smith and Sir Wm. Waller ; wheiron the Jury unanimously returned him guilty, after that the Lord Cheiff Justice Pemberton had summed up the evidence to them in a pretty discourse. Then the Lord Howard of Escrike being pannelled for acceffion to the same libell, it not being evidenced, the juries verdict and returne was ignoramus, which is leſſe then ane absolvitor. The title of this scandalous libell was "The True Englishman speaking Plain English." See Fitzharris' execution the nixt page : item pages 24 and 25, Colledge and Rouse.

On the 14th of June 1681, by his Majesties order a Parliament was proclaimed to meet in Scotland on the 28 of July nixt, the Duke of Albany being the King's Comiffioner theierto. Sir Wm. Purves, the K's solicitor, was, by a miftake going to cause proclaim it on the 13 of June, but, being a Monday it's absolutly dies ferialis, on which no proclamations can be made ; it's nather a mercat day nor dies juridicus, wheiron

courts of justice fit, to occasion a confluence of people. Some thought the Duke was to assume the title of Prorex or Viceroy, as more august for his eminency then that of Commissioner; and they differ in thir tuo, which sute not to a free kingdom as Scotland is, so that a Commiffioner is tyed up to inftructions, but a Viceroy hath no limitations at all. 2do, Viceroyes are sent to debelled and conquered kingdomes, as to Naples, Ireland, &c., but never to independent crounes. Vide infra, page 22, anent the manner of riding the Parliament. See the paper printed by the Counsell; item my folio law manuscript marked E, at the 15 of July 1681, page 208.

It having pleased God, for our fins, to vifit many of the Southerne shires of Scotland with a great drought this spring and summer, that scarce ther was any rain from March to neir the end of June, but cold winds and other unfeasonable weather, so that the like had not been obferved by the space of 40 years before, for no grasse rose but was more withered then it had been in the midft of winter with us, or scorched with ane Italian summer: and for the cornes, they ware in great hazard, so that a famine, at leift a dearth, and pestilential diseases ware feared to inshue. All thir ware interpret as the effects of our late Comet, (of which supra page 8,) and certainly, it may drain the moisture from the earth, and influence the weather, and disorder the motions of the heavens; but ther is a higher P. 21. hand of Providence above all thefse signes pointing out to us our luxury, abuse of plenty, and other crying fins. However, the Privy Councell, by ther A&t dated the 16 of June 1681, (which fee in print,) enjoyned ane universal fast throw the kingdome for deprecating God's wrath, and obtaining rain, to be held on the 29 of June in the nearer shires, and the 6 of July in the remoter; as also the fast is enjoyned to pray for the succes of the subsequenter Parliament. Some wished this Parliament might not make us or our posterity fast after it was done. But God thought fit to prevent our applications and addrefses, and on the 24 of June and the following dayes sent plentifull showers, yet the fast was obferved: In fe-

veral places the cornes ware so brunt at the root that the rain could doe them little or no good.

On the 27 of June 1681, on Mr. Alexr. (Robert) Forbes, a young man who had betaken himself to the ministrie, and preached frequently in Edinburgh, but could not get a church, from misery and want, in desperation, did attempt to cut his oun throat, but was interrupted ere he got that wicked action fully perfyted; and pains was taken upon the curing of him, and the wound was shewed up, tho he did tear it open with his hands, not being desirous to live, so violently did the Devill assault him with his temptations. See of Cromarties and the Lord Newbotle's selfe murder alibi. This unhappy young man, Mr. Forbes, dyed within 3 or 4 dayes after the wounds he gave himselfe, like Cato.

On the 1 of July 1681, Edward Fitzharris (de quo pagina antecedente) was hanged and drawen, and to his last breath asserted, he was threatned to say ther was such a Popish plot, as he in his narrative affirmed. And that same 1 day at Tyburne, was executed Mr. Oliver Plunket, the Pope's titular primate of Ireland and Archbishop of Armach, for his accession to that plot; it being proven against him, not by Protestants, but by Duffie Macmoyer and other Franciscan Friers of the Romish communion, that he intendent to bring ane army of 70,000 French and Spaniards to land at Carlingford in Ireland, and that he keepeed correspondence with Baldeschi, the Pope's secretarie, and Principe Collonna to that effect: but see his printed speach wheirin he denyes all this, and sayes thesse monks ware tempted to swear falsely against him because he keiped a strict hand of discipline over them. At the same tyme, Turberville, the principal witnessse, on whosse deposition Stafford (supra page 7) was condemned, came in to the Bisshop of London on a remorse, and said, he had deponed falsely against that Vicount. And on the 2d of July, the Earle of Shaftesbury, by order from the King and his councell, was committed close prisoner to the Tower of London, (wher he had been once before in 1676, but not

for treason as now,) in regard some offered to make it appear he was guilty of hy treason ; (vide infra pag. 27 and 28, anent Shaftsbury and Argile.) So we see God in his providence suffers things to run in some cloud and reverse, that men knows scarce whither to beleive ther was a Popish plot or not, as it was affirmed with all Titus Oats's circumstances ; but he who sits in the heavens laughs at all ther designes and machinations, and whenever he thinks fit he will dash them in peices, and bring order out of confusion, and the truth to light. But sober Protestants turned very jealous that ther witneses ware only suborned to put out of the way any who appeared warmly against the introduction of Poperie.

P. 22. On the 13 of July 1681, was apprehended Mr. Donald Cargil at Covington milne, befyde Lanerk, with 2 of his accomplices, on Smith and on Boog. This Cargil was a great feild preacher, and he who excommunicated the King at Torwood in September laft, and stirred up many poor people against the governement. He was brought in to Edinburgh on the 15 of July, and examined before the King's councell, and gave shifting answers, only he ouned the lawfulness of defensive armes. Vide infra this same page.

On the 17 of July 1681, arrived from England at the road of Leith, Ladie Anne, the Duke of Albany and York's second daughter. The King's yaughts ware saluted with a full round of the canons upon the Castle of Edinburgh.

On the 26 of July 1681, at night, dyed, in his oun (the Chancelor's) lodgings, at the Abbey of Halirudhouse, John Lesly, Duke of Rothes, Lord Hy Chancelor of Scotland, and who swayed the greatest dignities a subject was capable of, having been the King's Commissioner, Chancelor, Treasurer, Generalissimo of the forces, &c. He was a man of excellent indowments, though void of learning, and on who gave himselfe great liberties in all sorts of pleasure and debaucherie, and did by his bad example and instigation infect many of the young nobility and gentrie of the

age, which made him to dy the leſſe regrated with ſerious and confidering persons. When the jaundice and hydropsie firſt feized on him, he hoped to have notwithstanding praefided in the Parliament, but it pleased God to cut him of 2 dayes before its doune fitting. He was brought up to the Hy Church of Edenbrugh, and in great ſtate and ſplendour conveyed thence to the Abbey Church, and from that to Leith, on the 23 of Auguft 1681, (wheirof ſee the method beſyde me,) and the nixt day carried to Leflie, and interred in his ounē ſepulchre. Vide *infra*, Haddo, his ſucceſſor, page 35.

The ſame 26 July, Cargil and 4 of his diſcipliſes, viz. Mr. Walter Smith, Mr. James Boog, on Cutle, and on Thomson, ware tryed at the criminal court, and found guilty of treason and treasonable principles; in diſouning the King and his authoritiſe, for ouning the Sanquhar declaration and covenant, for being in rebellion and armes at Bothuelbridge, excommunicating the King at Torwood, calling the King a tyrant, diſouning his ſupremacy, and refuſing to ſay God ſave him, though that would redeme ther life. They ware all 5 hanged at the marcat croſſe of Edinburgh, on the 27 of July, (which ſome thought but ane ill preparation to the Parliament to be ridden the nixt day.) They dyed all a great deall more stout and firme then ther leader Cargil, who behaved moſt timorouſly to ſave his life, (if it could have been converted to baniſhment,) and minched ther principles, and begged for a longer tyme, that he might be judged in Parliament; but finding ther was no remedy, he put on more stayedneſſe and reſoluſion after his ſentence.

On the 28 of July 1681, the Scots Parliament ſate doune, and was riiden with great pompong and magnificence from the Abbay of Halyroodhouse to the Parliament Houſe and back again: vide *supra*, page 20. Ther being nather Chancelor nor Treafaurer, the Marquis of Atholl, Privy Seall, as the nixt officer of ſtate, ſupplyed the office of President. The Parliament p. 23. was opened by a prayer, ſaid by the Bifchop of Edinburgh, and the rolls

being called, ther ware severall protestations made by the Earles of Sutherland, and others, for præcedency before all others, by the inferior officers of state, on against another, viz. the Advocat-Register, Justice-Clerk, and Treasurer-Depute, by the Commissioners from the shires of Fyffe and Perth against them of Edinburgh shire, (for which cause, to preserve ther priviledges, thesse ryde alwayes some space alone before the rest of the Parliament ryde.) Then the King's letter was red, and the Duke had his speach ; both which see alibi. During all this tyme, the Dutchesse of York and other Ladies ware present. Then the articles ware chosen according to the act of Parliament in June 1663, and a committee named to try and report the controverted elections ; and then the house adjourned, the members having all first taken the oaths of alledgeance and supremacy, and signed the declaration. Some expected a motion on the reading of the Duke of York's commission in the house, that it shoulde have been objected against the Commissioner, that he was not capable of so hy a dignity, not being a Protestant, because by the act of Parliament in 1557, and the 5th act in 1609, a Papist is rendered incapable of being a member in any court ; at leift, that he ought to fwear the alledgeance and supremacy, which no Papist without a dispensation could weel doe, the first renouncing the Pope's forrain jurisdiction, and the 2d declaring the King to be head of the Church : but none proposed this. Duke Hamilton craved a letter of thanks might be sent to his Majesty, which he was not so forward to in the Parliament 1673, (de quo plura alibi in a little manuscript in 8vo, anent the minutis and accurrents of this Parliament.) Exception was taken against his Royall Hynesse, that being now the commiffioner and representative of a King, who ouned himselfe not onlie to be a Protestant but ther head, (see G. Burnet's 2d part of the History of the English Reformation, p. 101;) he shoulde have absented himselfe from the Protestant service, and from hearing sermon in our churches, for in this character he is as the King, and to a&t in a sphære consonant to his principles, and not conforme

to his oun private Popish ones: just as when the King of England employes ane embassador to France, or other forrain country (though the ambassador be Popish,) yet he may not, under all hyest pain, goe openlie and hear masse, because his master that sent him would not doe it, and he most a&t nothing disagreable to his quality he sustains. However, it was concluded, the Duke was more ingenuous in not coming, seing he would readily but incur the note of a hypocrite if he complyed. Some thought, seing the Duke of York procrastinated the securing of the Protestant religion, he might justly be challenged as not performing (befydes his oun promises) of the instructions given him by the King, both in private and in his letter to the Parliament, offering his free assent to all laws they could devise for the security of the reformed religion. See of this the 4to manuscript marked A, 5, pages 86, 87, et seq. The motion and proposall made by George Dallas, as a farder security to the Protestant religion, did not want its oun due confideration, and was generally yeelded to by the Parliament, viz. that the 1 a&t of the Parliament, held in 1662, restoring Bishops, had, by inadvertency, reschinded the 1 a&t of the Parliament held in 1592, in the wholle heads of it, because a part of it condemned Episcopall governement, wheiras the rest of it was on of the greateft bulwarks and cleareft laws we had against Popery, but the 1 a&t of the Parliament in 1612 reschinded it only in part; and therfor, he craved the said a&t in 1592 might be revived in fo far as it abolished Popery. See the 4to manuscript marked P, folijs 43 and 47; item, my law folio manuscript, marked E, in July, August, and September 1681, pages 208, 209, 210, et seq. (See that same manuscript [4to MS. marked A, 5,] at great length, page 94, et sequentibus multis usque ad finem istius libri.)

On the 31 of August 1681, Steven Colledge, commonly called the Protestant Joyner, was hanged, drawn, and quartered as a traytor at Oxford: The historie of whosse tragædie was this; being apprehended, fix witneses, viz. Dugdale, Turberville, Haynes, Masters, Prance, and Jennings deponed

against him that they heard him say, when the King was at Oxfoord in March last, during the sitting of the Parliament ther, it was intended and resolved by the House of Commons, and a part of the Lords, to seise upon the King and carry him prisoner to London, and keep him under captivity and restraint till such tyme as he yeelded to the concessions and demands of the Earle of Shaftsbury, city of London, and other dissenters throw England, who ware to have ane army of 50,000 men in readinesse ; and in caise of the King's refusall they would send him the way his father went ; and they swore it was as univerſall a plot as ever the Popish on was. Notwithstanding this seemed to be a clear probation, yet the Middlesex Jurymen of London, ſuspecting the integrity of the witness(es), returned the verdict ignoramus, as not being convinced theirby (vide p. seq. Rouse's case, et ſupra, p. 20, Howard.) This ſo displeased the King, that he cauſed him to be tranſported to Oxfoord, ther to be tryed again by ane affiſe of that county ; which was accordingly done, and he was by them found guilty of hy treason, and theiron condemned by the Lord Cheif Justice and others, which, as I have told, was execute upon him. At his death, he confeſſed he might ſome tymes have uttered indecent words of the King and his counſell, but attēfted his innocence of the exprefſions libelleſſ, and charged the mercenary witness(es) with perjurie, and that they had deponed falſely, purged himſelfe of Poperie with which he was branded, and declared he dyed preſbyterian, and that he never ſaw the paſquill laid to his charge called "Raree chofſe," ["Rary Shew," a ballad,] till Dugdale ſhew it him, &c. Doctor Oats ap-peared at his tryall to defend him, which being reſented as tending to diſparage the King's evidence and witness(es), Oats was diſcharged the King's preſence and court, and his penſion and guards tane from him, and was threatned with ane accuſation of hy treason ; but the King called for him, and forgave him, but with a reprimand that he might remember to be more thankfull.

On the 1 of October 1681, the King's tresurie and Exchequer did set a tack of his wholle settled revenue for 7 years to Bailzie Baird, Charles Murray, Robert Milne, and sundry others, who ware to pay of tack duety yearly for the same 90,000lb. sterling, and advance 16,000lb. sterling, for the paying the army; the greatest improvement that ever hitherto was made of the King's rent, it never coming in on hand before, but ordinarily the tacksmen of the customes, and of the 40,000lb. sterling of excise ware different.

On the 3d of October 1681, the D. of Albany parted from the Abbey in the morning, and went to Glasgow and Dumbarton; and being intertained by the Lord Rosse at the Halket, he returned back to Halirudhousse on the 5th of October, in the afternoon.

At this tyme, Christendome was exceedingly allarumed with the French P. 25. King's sudden surprizall of 2 such important places of strength as Casale and Strasbourg, the first being the key opening the door to all Lombardy and Italy, and the last being the most flourishing republick and considerable passe upon the river of Rhine, and ane inlet to the Empire; and which greived thosse of the reformed religion most was, that in Strasbourg, wher the Lutherans did not permit the publick exercise of the Popish religion, he had brought back the Popish bischop, and given the Catholicks the Cathedral church for saying Masse in. See Heylin's Cosmographie, describing Casale in Mantua, and Montferrat and Strasbourg in Alsatia, pages Item d'Avitie's World, tome , page

On the 10 of October 1681, ther ware 5 poor fellows hanged, besyde Edinburgh, for disouning his Majesty and affirming he was a tyrant. See the account of it in my law manuscript, marked with the letter E, pages 222 and sequente. Vide supra, page 15.

On the 14 of October, was the Duke of York's birth-day kepted at Edinburgh with more solemnities and mo bonfires then the King's uses to be; so prone are flatterers to adore the rising sun, and any but too good a

prince would be displeased, and take ombrage at such reception given to his succeffor in his oun lifetyme. In the beginning of October, this same year, was the Dutchesse of York's birth-day obferved by our Court at the Abbey.

On the 17 of October 1681, Mr. John Rouse was pannelled (fee him hanged, *infra* page 52,) for treasonable words againft the King, before the Sessions at the Old Baily in London. Ther ware 6 or seven witneffes who deponed againft him thir or the like exprefſions, That the King had forfaulted his right to the croun by his tyranny and breaking his coronation oath, and that the Parliament would pull him doune and serve him as the fooll his father, &c. ; yet the Grand Jury of Middlesex returned this bill Ignoramus, alledging they had fatisfyed their oun consciences in fo doing, and that they did not beleive the witneffes, but thought them suborned, and that they prevaricated as they did formerly in Colledges caſe, (*supra* pagina precedente,) yet the King found another jury at Oxfoord who condemned Colledge. See the printed account of Rouse, whoffe principles are the same with our Cameronians and Cargillians, only with us they publiquly oun them, and in England they diffeminate them clandeftinly, and will not abyde at them when they are queſtioned for them. The King is much troubled at thir grand juries, as being no freinds to him ; nor are they to the Papifts, againſt whom they admit half a probation as ſufficient, but rejects the clearer evidences againſt Protestants. Their is ane a&t, anno 3<sup>to</sup> Regis Henrici 8<sup>vi</sup>, ſtatute 12, allowing the justices to reforme the pannell or jury returned by the Shireff, wher they find them to be ſuſpet persons, againſt whom exceptions may be juſtly made as diſaffeſted to the King's governement ; and de facto, ther ware 2 of Rous'es jurie removed, becauſe frequenters of conventicles, till they purged themſelues upon oath.

P. 26. On the 1 of November 1681, ther was a new commiffion for the Lords of the Seffion, wher President Stairs, Glendoick, Clerk-Register, Newbyth,

and Argill ware left out, and Haddo, Tarbet, Boyne, Drumcairne, and Queensberry put in ther roume. Then the oath of the Test was taken by the Lords, and many of the Advocats and Wryters: but see a full and perfitt accompt of this great revolution and transaktion, and of the progreffe of the Test, in my 8vo manuscript of Session occurrents, from page 47 of it till page .

In the beginning of this month of November 1681, dyed [William] Douglas Earle of Morton.

About this tyme, ane extraordinar discovery happened at London, some of the Irish witnessses, John Arthur, Owen Callaghan, Mortach Dounie, and others, mentioned supra pages 24 and 25, drinking at a taverne, began a health to the confusion of all such as refuse to depone for money: then fell a quarrelling, why on had gotten more for swearing against Fitz-harris, Colledge, Rouse, and Shaftsburie, then others, they alledging they deserved it as weel; which being overheard, they ware seized on, and being examined at Privy Counsell, they confessed they ware bribed to depone falsely; wherupon all the punishment inflicted was, they ware sent with a guard to Ireland, which was no satisfaction to the publick justice of the nation against such pernitious rogues.

15 Novembris 1681, being the Quean of Brittain's birth-day, it was keeped by our Court at Halirudhouse with great solemnnitie, such as bon-fyres, shooting of canons, and the acting a comedy, called Mithridates King of Pontus, before ther Royall Hyneffes, &c., wheirin Ladie Anne, the Duke's daughter, and the Ladies of Honor ware the onlie actors. Not only the canonists, both Protestant and Popish, but the very Heathen Roman lawyers, declared all scenicks and stage players infamous, and will scarce admit them to the sacrament of the Lord's Supper. See more of this alibi, from Durham's preface to the 10 Commands; item Spencer's Similies, or Things new and old, page 292, from Tertullian, &c.

About the same midle of November 1681, the schollars of Westminster,

in derision of the Presbyterians of the City of London, truck't up a fellow of pasboard, whom they termed Jack Presbyter, with a scroll of parchment on his right hand, and Vox Patris written on it, which is the name of a seditious pamphlet ; and another on his left arme with this inscription, The Solemne League and Covenant ; and on his brow a paper with this word, Ignoramus, because they will find no bill relevant against the Presbyterians, though they ware never so guilty. In revenge of this mockerie, the city apprentices brunt a new image of the Pope, in great solemnity and proceßion, as our Colledge boyes did in December laſt, *supra* pages 8 and 9. *Vide infra* page 28.

P. 27. *Supra* page 21, we ſaw the Earle of Shaftſburie imprifoned, now, in November 1681, he is brought to his tryall before a grand jurie within London ; before whom Turberville, Haynes, Smith, Macnamara, and other witneſſes, deponed, that Shaftſberrie had bribed and corrupted witneſſes to deſpone falsely in the Popiſh plot ; that they had found a bond and aſſociation in his cabinet for defence of the King and the Protestant religion (as it boor in the narrative) by which all who entred into it ware to ſwear ane oath or teſt to this purpose, That they ſhould obey all the orders and edicts to be made by the managers of the ſaid aſſociation, and in caſe any ſhould attempt to introduce Popery, whomever they ware, (which generallity except none,) they ſhould refiſt and oppoſe them by open force to the utmoſt of ther power. Though this ſeemed a very strong probation, yet the grand jurie being ſuſpicioſus and unconvinc'd of the truthe of quhat was depoſed, and ſuſpe&ting that paper might be malitiouslie dropped and put in Shaftſburie's chamber, they returned the bill Ignoramus. Wheirupon, on the 29 of November 1681, Shaftſberrie, Lord Howard of Eſerick, Wilſon, &c., ware by a Habeas Corpus ſet at liberty upon £3000 Sterling bayl or caution ; but tho' the Duke of Monmouth, and other noblemen, ware ther and offered themſelves, yet they ware refuſed, because they might afterwards, as his peers, come to be his judges. Since his libera-

tion, Shaftberrie is pershueing on Grame and others on the statute of Scandalum Magnatum: see Shaftberries printed tryall and the bond of affociation, with animadversions thereon. See the protestation and oath made by the Houfe of Commons in England in May 1641, in substance very like this affociation; its in Baker's Chronicle, page 528.

In November 1681, ther was ane attempt made by some French soul-diers, at the Hague, to seize on the person of the Prince of Orange while he was hunting besyde Sceveling, and take him prisoner, and carry him away in a boat to France. But it was discovered, and fundry of them who ware upon the plot ware apprehended and sentenced to dy; but the Prince pardoned them, which so displeased the peopple that they threatned to pull doun the French Embassador's house.

In November 1682, many ministers in Scotland desert ther churches becanfe they, though Episcopall and conformists, yet had no freedome to fwear the Test: Some relented, and on ther repentance ware readmitted again to ther kirks.

On the 12 and 13 of December 1681, was Archbald Earle of Argile brought to his tryall upon the indytment of treason; wheir I was on of his advocates who appeared for him, and was afterwards quarrelled for signing with Sir G. Lockhart and the rest ane opinion that we thought the dittay not relevant to infer thesse crymes against him. The criminall justiciars, notwithstanding the defences, fand the explanation given in by the Earle to contain the crimes libelled, wheirupon probation being led, and the same remitted to the knowledge of ane assise, they by ther verdict returned him Guilty of treason, leifing making, depraving the laws, assuming the legislative power, &c. wheirof accompt is given to the King; and the Earle made his escape out of the Caftle of Edinburgh on the 20 of December at night; and on the 23 of December therafter the sentence of death, forfaulter, taynting of blood, &c, was pronounced against him with the usual formalities of trumpets, ryving his arms, &c. See all

this at more length, in the folio law manuscript marked E, at the 12, 13, 20, and 23 Decembris 1681, page 233. This is a strange reverse of P. 28. providence: Argyle, a great courtier in July last, and carries the crown before the Duke before the Riding of the Parliament, and now condemned of treason and forfaulted, and overrun by the violent malice of his enemies, and which many thought was the more readily given way too that he appeared to be a valiant assertor of the Protestant interest in the Parliament; so true is that of Seneca *Tragicus in Thyestes*, *Quem dies vidit veniens superbum, Hunc dies vidit fugiens jacentem: Nemo confidat nimium secundis.* For though the Duke of York allows us to continue Protestants, yet whoever appears zealously for it are suspected as factious, as if under that pretence they ware republicans, and aimed at a change of the governement. But what created pity to Argyle (though formerly hated eneugh for oppressing his creditors, and nather paying his oune nor his father's debts) was this apprehension that he suffered for being Protestant; and that they tossed him, and made up a fictitious cryme of treason against him from a slender paper used by him for salving his conscience at the swearing of the Test, which was more capable and susceptible of a good fence, then of that strained metaphysicall gloss imposed on it, and wheirin all the world, who red it disinterestedly, could find no such cryme; so that the reflection Seneca has upon Piso's cruall severity to his souldiers, (*libro primo de Irâ, cap. 16, sen. ult.*) is very applicable heir, *Excogitaverunt quemadmodum tria crimina facerent quia nullum crimen invenerant.* And some thought it no policy in His Royall Hyneffe to notice that Explanation; it would have broken Argyle's credit and reputation with the Presbyterian faction totally, but the persecuting him on that head buoyed up his credit with them again, so as to turne ther Crucifiges unto Hofannas. However, let us admire and adore the providence of God, who from such small rises brings about his oune mysterious decrees, the meaning whereof we cannot farther understand, than that true honesty will at the long

run prove the best policy, though it may be opprest for a tyme by the corruption or timerousnesse of judges, wher justice is thus prostituted and overawed, the nation is in a he&tick decay; for Argile may say to us all Hodie mihi, cras tibi. Let us duely consider the voice of thir rods crying to Scotland, and the meaning of God who sends them. Vide supra, page 21, anent Shaftesbury. If thir captious methods be once brought in practise, ther is no action so innocent but it may be made a snare to entrap the unwarie theirin, though they meaneed never so weell. (See the theologick 4to manuscript, marked A 5, page 86 theirof; see the copie of his indytment, &c. in the 4to manuscript, marked P, folio 67 et sequentiibus; item the octavo manuscript of Session occurrents, page 65.) Of Argile's case, they say, the Earle of Hallifax had this expreſſion to the King, that he knew not the Scots law, but by the law of England that Explanation could not hang his dog.

We see, supra pages 8 & 9, a great stir made for the Colleginers burning the Pope at Christmas 1680; this year the boyes and prentices forboor ther solemnity on Zuille day, because it happened to be a Sunday, but they had it on the 26 of December at night. Ther preparations ware so quiet that none suspected it this year; they brought him to the Croce, and fixed his chair in that place wher the gallows stands, he was trucked up in a red goune and a mitar with 2 keyes over his arme, a crucifix in on hand and the oath of the Test in the other, then they put fyre to him, and it brunt lenthy till it came to the pouder at which he blew up in the air, (vide supra, page 26.) While they ware at this employment ther ware lightnings and claps of thunder, which is very unusuall at that season of the year. At this tyme many things were done in mockerie of the Test: on I shall tell. The children of Heriots Hospital finding that the dog which keiped the yairds of that Hospital had a publick charge and office, they ordained him to take the Test, and offered him the paper, but he, loving a bone P. 29. rather than it, absolutely refused it; then they rubbed it over with butter,

(which they called ane Explication of the Teft in imitation of Argile,) and he licked of the butter but did spite out the paper, for which they held a jurie on him, and in derision of the sentence against Argile, they found the dog guilty of treason, and actually hanged him.

About this tyme dyed Generall David Leslie, Lord Newark, very suddenly ; see it the nixt page.

## ANNUS 1682.

IN Januar and Februar 1682, a famous controverſie was moved by his P. 29. Majesties Atturney againſt the citie of London, craving, by a writ called Quo Warranto, they might produce ther charters (Magna Chartas) of erection, and other evidents containing ther priviledges, immunitiess, and franchises, before the judges at Westminſter, to be caſſed, annulled, and declared void and loft, and forfaulted to his Maſteſty, in respect they contained ſeveral irritant conditions and qualityes, ſuch as preferving the peace of the city againſt unlawfull conventions and meitings, which they had contraveened by their convocating, and ther Common Counſel's preſenting a bill to the King intreating him to call a Parliament, and by permitting conuenticles to diſſenters from the eſtabliſh governement of the Church of England. (See ſome of ther charters in the ſtatutes and acts of Parliament of England, page .) But the main thing the King aimed at was to deprive them of ther power and jurisdiction of ſhireſhip, (ſhrivaltie,) within the county of Middleſex, alledging they had no right theierto; and yet, by vertue theirof, they called and impannelled all the Grand Juries which ſerved for that county, and ordinarily they choiſed persons diſſaſſeted to his Majesties governement, who affoilzied any whom the King inclined to have puniſhed, as Shaftſbury and others; (de quibus ſupra.) But the Bifchops have fallen on another method to incapacitat ſuch, by excommunicating them for not attending diuine ſervice according to the forme of the English Church, and then getting letters for reje&ting them from being on juries, or having *perſonam ſtandi in judicio*.

The King delt with the City, to see if they would submit to him, or redeem ther liberties, and remove on Alderman Pilkinton, a factious person. But the city resented ther priviledges ware drawen in question before any leſſe judicatory then the Parliament, and ſtood on ther defence, and employed the beſt counſell in England, and named a committee for managing it, and empowered them to call for what money they pleaſed furth of the Chamber of London, for prosecuting theirof; ſo that his Ma-jeſty, fearing the event or disturbance might follow theirupon, he delayed the affair till Trinity terme in April. (Vide *infra* more p. 36 and 49.)

12 Januarij 1682. About ſome 30 or 40 persons of Camerons faſhion came incognito to the toun of Lanrick, and ther, at the Mercat Croce, publickly brunt the late A& of Parliament anent the teſt, and emitted a Proclamation againſt the King, calling him a tyrant: wheirof ſee the copie beſyde me. The Privy Counſell, in retribution, caused the Solemne League and Covenant, with the ſaid Presbyterian declaration, and Cargill's Co-venant, (which, about a year ago, they allowed to be printed, thinking it ſo groſely abſurd, as none could be ſeduced by it) to be publickly brunt by the hand of the hangman (the magiſtrates being in ther robes) at the Croſſe of Edinburgh. Some thought it but a ſorry politique to burne the P. 30. Solemne League, to revive the memory of what was long ago buried in oblivion. The Secret Counſell also fynded the inhabitants of the toune of Lanrick in 6000 merks.

18 Januarij 1682. Alexander Cockburne (Cowban), hangman of Edinburgh, killed on John Adamſon, alias M'Keinzie, a blew-goun beggar, in the hangmans ounе house, and under night laid him at his door. The magiſtrates of Edinburgh judged him within three ſuns as Shireſ within themſelves. The probation refuſed upon ſtrong preuafions againſt him of his guilt, as his denying that the beggar was in his house that day, the contrare wheirof was proven; the finding bloody cloaſths in his house; the hearing groans from that place, &c. The Affiſe found him guilty, and he

was hanged up in chains between Leith and Edinburgh; but never confessed the fact. He was *pessimæ famæ*, and had perpetrat it for greed of the poor beggar's money. On Mackeinzie (whom Cowburne had undermined at Stirling, and got him thrust out of his place of hangman at Stirling), officiated *bourreau* upon him. It was reported, that the hangman of London having murdered his wife, was execute to death for it about the same very tyme with our's. (See my folio Law manuscript, at the 16 of Januar 1682, page 238.)

About this tyme we got accompts from Holland, Zeland, and Brabant, of the dreadfull waftations the inundations of the sea breaking over ther baftions, had made in those places, by a strong westerly wind, overflowing many villages, tounes, and countries, and drowning great numbers of the inhabitants, reckoned to many 1000's of persons, and many millions of money. A breach so great that the memory of none living remembred the like; and thesse floods ordinarily are presages and omens of some enshueing calamity, and may render us enamoured of our oun native country, which is not exposed to such hazards from the inbreaking of that furious and merciles element the sea, which is hyer than thesse Netherlands, and would cover them all, were it not debarred by ther waft ramparts and hils of sand on the shoar, which every year and winter it makes impressions upon, but never overcame them so totally as this. We had also this winter thesse shaking and formidable winds.

Amongs many other sudden deaths at this tyme in Edinburgh, David Leslie Lord Newark, generall to the Covenanters in 1650, was in the church hearing sermon in the fornoon, (wher I sate besyde him,) and went home weill, and was dead by one a cloak in the fornoon, of ane apoplexy, as was conjectured.

In Februar 1682, a servant woman in Edinburgh, about ij at night, throwing over a tub of foul water from a window 4 stories hy, followed the same, and fell over the window into the street, and broke her skull,

and expired some few howers after with lamentable sobs. O Lord ! grant we may be ready whensoever thou shalt call, tho' at midnight.

The 11 of Februar 1682. Sundry peopple being on the North Loch of Edinburgh, the ice broke, and they fell in, 3 wheirof ware drowned ; on a wryter, Mr. David Fergusson, the other 2 ware fleschers ; ther bodies ware not found till the nixt day. We have a proverb, that ' The fox will not set his foot on the ice after Candlemasse,' especially in the heat of the sun, as this was, at 2 a cloak ; and at any tyme the fox is so sagacious as to lay P. 31. his ear to the ice, to see if it be frozen to the bottom, or if he hear the murmuring and current of the water.—See Loyd's Fair Warnings to a Careles World, page 146, wher ther is a pretty story of the Persians terror in flying over the river Strymon when frozen, tho they ware before hectoring, and rufling against a Deity.

This same 11 of Februar, ther was, about ij at night, a great ecclipse of the moon, it being near the plenilunium : about 19 digits (points) of it was obscured, and the night being otherways clear, I saw it verie distin&tly. Q. Curtius tells, in the History of Alexander the Great, that the Indians ware amazed how the interposition of the shadow of the earth could make a lunar ecclipse ; or the body of the moon's interveining betwixt us and the sun, which is 1000 tymes bigger then the moon, should occasion a solar on.

In Januar or Februar 1682, some of the English Republicans, in enmity to the Yorkist party, did deface, cut, and mangle the Duke of York's picture, which is set up at London. The lawyers (see Perezius on the title Cod. de Statuis Principum) saye, it is æquivalent to violat ther statues, and to affront ther persons, for they who do the on wald also kill the principall if they durst. The Mair of London emitted a Proclamation, offering £ 500 sterling reward to any who should discover the doer. At last, in May, it was found on Broock, a notorious Papist, had craftily and maliciously done it, to thro' the odium of it on the Protestant partie.

About this tyme, in Februar 1682, dyed Mr. Patrick Scougall, Bisshop of Aberdeen, a moderat man, and but half Episcopall in his judgement. To his chair was advanced Mr. George Haliburton, Bisshop of Brechin, in April theirafter; and on Mr. Robert Douglas, Dean of Hamilton, was made Bisshop of Brichen.

On the 10 of Februar 1682, happened a very strange accident neir Iruing, in the house of Generall Major Montgomerie. On Margaret Dougall, a servant ther, being blamed for some linnens a missyng, shee, for hir oun vindication, and for discovery of the theiff, raises the Devill by the turning the riddle 3 tymes withershines. See the full particulars of it in a paper besyde me. The divination *per cribrum* is very ancient, and was knownen and practised in Greece in the tyme of Paganisme. She may be punished by death, not only by the divine law, but also by 73 A& of Parliament 1563, wher consulting and seikng responses from necromancers and witches is declared capitall, ergo, much more the seikng to the Devill. Some think her confession not sufficient, *nisi confaret de corpore delicti*, that he was raised by hir or she used incantations to that end, for her confession (though persevered in) may be *ex phrenesi et taedio vitae*. See Grotius' notes on the 21 of Ezechiel, v. 21, et seq. See him on Hosea 4, v. ij. This divination *per cribrum* is called by the lawyers *Coscinomanteia*. See Georgius Adam Struvius, Syntagmate Juris, tomo 2, Exercitatione 49, ad Legem Corneliam de Sicariis, no. 65, page 971, mentioning it.

At this tyme ther was ane Turkish embassador from the Emperor of Morocco at London, called Mehemet Ben Thummim. He had strange wayes of courtesies and saluting, and ane od custome of eating his meat, fitting on the floor like a dog: his habit was very antique. The King and Nobility complimented him much; and ther was a firme peace made betwixt the King and his master for Tangier.

In Februar 1682, was Thomas Thine esquire, called Thom of 10,000's, P. 32. because he had upwards of £10,000 sterling of yearly rent, murdered in

London by some strangers, by the direction of Count Coningsmark, a Suede. Some said, the quarrell was about the Lady Ogle, airesse of Nor-thumberland, who was married to Squire Thin, but had left him, and Coningsmark had a kindnesse to her. Others said, he had done according to the custome of his oun country, because Thin had refused his challenge to fight him. The Londoners ware much enraged because he was a great follower of the Duke of Monmouth's; and so it might be a draught of the papists to cut of the most zealous and eminent protestants, and the Duke of Monmouth was with him in a coach a quarter of an hower before the accident. They being tryed, the jury returned Captain Fratz and the other two guilty, wheiron they ware execute; but affoilzied and fred Coningsmark. From which verdict the relations of Thin and my Lord Cavendish, who ouned them, appealed as unjust; but in the meantyme Coningsmark escaped. Ther was a great debate amongs the Doctors of the civil law anent ther judging him a stranger and a dependent on ane Embassador, but they gave him a *mediata lingue*, the on halfe of the inquest forrainers. A German gentlewoman came to the King all cloathed in white, with a petition begging Captain Pratz life, and that he might be granted hir in marriage; but, to gratify the English, the King refused hir desire. He dyed with great stayednes and resolution, without exprefsing any remorse for the murder; the other two seemed penitent. They ware execute in the Pell Mell, which was the place where they perpetrated the murder. The body of Boratski, the Polander, who was the immediat and greatest actor, was hung up in chains, the other two ware allowed buriall.

On the 6th of March 168 $\frac{1}{2}$ , the Duke of Albany and York parted from Edinburgh, and took shipping in his oun yaught at Leith road, being desired to see his Majesty at Newmarket. Ther was great solemnity and attendance at his parture. He met with a very croise and stormy passage, and at last landed at Yarmouth, on the 10 of March, being

four dayes toffed, and rode thence to Newmarket. He left his Dutchesse and daughter behind him in Scotland, wher the Dutchesse had the good fortune to conceave and be with quickchilde when his Royal Hynesse left hir. (Vide infra pag. 38 in fine.)

Seven of the Scots Bischops wrot a letter to the Archbischop of Canterbury, at this nick of tyme extolling the Duke of York's care of them and our religion to the skies; which was printed to avoid false copies of it that ware going abroad.

On the 10 of March 1682, was Major Joseph Lermont apprehended at his oun house, neir Peibes, by the Laird of Meldrum; he had been a commander of the rebels both at Pentland Hills and Bothuel bridge. Many attempts had been made to take him formerly, but he had frustrated them all by a secret subterranean cove he had digged under his house, which, like a mine, did lead him under the ground of his yards, and thence away to a moffe, out at which paſſage he formerly escaped, but was discovered this tyme. He ouned before the Privy Counſell all his a&tings, but feimed to disclaime the wild ungoverneable Cameronian principles. A little after this, another of the ringleaders of that party, on Macclellan of Barſcobe, was also feized and ſent in priſoner to Edenbrugh. Being both ſentenced in the criminall court to be hanged, they ware repreived; as alſo on Fleeming, who was condemned for the fame.

In March 1682, the French King having blocked up all the avenues of P. 33. the city of Luxembourg by a great army, ſo that ther was no humane probability but it and all the adjacent province behooved to fall into his hand, ther being no force on foot, or likely in haſt to be raiſed, that could make head againſt him, or refiſt him; yet, at the King of Brittain's iſteſſion and mediation, he removed the blockade (when ther was none to pull the prey out of his jaws, or to preſerve the provinces, ſo far as they belonged to Spain), and promiſed not to trouble Christendome this ſummer, at leaſt, none on this fyde of the Alpes, but proffered his help againſt

the Turks. Some cryed up this as a noble, generous, and vertuous heroick a&t. Others thought it was but to amuse England, and to carry on the Duke of York and the Popish interest that the English clamour for a Parliament to save the Netherlands might be stopted. Others said it was for want of money that he raised that seige, or with a designe to fall upon Coloigne and Liedge, or to render the Empire secure, and to break the meausures of ther leavies and confederacies.

About this same tyme, it was reported that the French King, besydes what he has caused his convocation of the clergie declare against the Pope's infallibility and superiority over a generall counsell, and his power of excommunicating Kings (de quo supra, pag. 17 in fine, and see the printed Edict;) he intends likeways to call a generall assembly of his most learned churchmen, both Protestants and Papists, and cause them set doun rules and canons for a reconciliation, and for drawing his wholle subje&ts unto ane unity of religion as much as can be. This minded me of Zeno's Henoticon and the Emperor Charles the 5<sup>th</sup>s Cassandrian Interim, called 'Inter-religio Cæsarea,' which attempts never prove fortunat nor successfull, of the which see large refle&ctions in another 8vo history manuscript, marked F, page .

The French King resolves to purge the Roman Catholick religion as much of superstition and idolatry as may consist with policy and his interest, to draw all his dissenting subje&ts in to him, who stumble at thesse grosse errors; (see alibi of the Bisshop of Condom's book, putting a fair face on the popish do&ctrines and practices, which book is said to be ratified by this Pope); and therefor, he is to discharge the carrieng the Hostie in proceffion, and adoring it publickly; and is to appoint the Masse to be red and sung in French (into which he has already tranlated it,) and no more in Latin; and has sent over to the Bisshop of London to search the English records by what stpes Henry VIII. of England began and carried on his reformation. Dr. G. Burnet's history (de quo alibi) will give much

light to this. It's thought, he intends little more reformation but to suppreſſe ſome monaſtries, and aſſume ther revenues as Henry VIII. did, and to make the religious orders and monks depend on the Bifchops and not on the Pope, as now they doe. He cauſed registrat his edift in the records of the University, the Sorbonne, and the Parliament of Paris.

In 1682, the Affembly of the Grand Auguftins have ratified the King's doings. The Benedictins demurring on it, the King has incapacitated 12 of their cheiff religious men, and called for ane account of their revenue. The Sorbonne are ſeverely reproved by the Parliament of Paris for delaying to approve the King's a&tings againſt the Pope, with whom they joyned as Jansenifts, in odium of La Cheſe and the other Jesuits, who have the French King's ear. (Vide ſupra pag. 17.)

The King of Spain, being diſpleased with the Prince of Parma's governement of the Netherlands, hath ſent, in March 1682, the Marquis de Grana to be governor ther in his place, and the Prince's ſecretary, De Prado, is impriſoned till he give account of his embezilling the publick money. Anent the cuſtome of ther ſending a governor hither each 3 year, ſee Observes alibi.

In this ſame month of March 1682, it was reported, that the King of P. 34. Sueden had ſuppreſſed the Senate, by whosſe counſell he and his predeceſſors uſed to rule, and had made himſelf a hæreditary absolute prince.

In the middle of April 1682, the King and his brother having come to London, the protesting Lords and the city resolved to make a great eaſt on Eaſter week the 21 of Aprill, and by printed tickets, bearing that they ware resolved to meet, and, by a ſermon, thank God for preferving hiſ Ma-jeſty, the Protestant religion, and the English liberties from the helliſh Popiſh plot. Great numbers ware invited to be preſent at Haberdasher's Hall, wher ther was great preparations. But hiſ Ma-jeſty, looking on this as a ſeditious a&t of contempt againſt the Duke of York, whom they would not countenance, he by ane printed a&t of Privy Counſell, diſcharged that

meeting, called the True Protestant Feast, on this narrative, that the appointing of days for fasts or thanksgivings was a point of his prerogative, and for his subjects to do so it was to make parties, and distinctions, and confederacies amongs them, &c. They so far obeyed, as not to keep it at the place appointed; but had a great meeting else where, with bonfires, ringing of bells, and the solemnity of the apprentices burning the Pope. The King and the Duke parted the next day from London to Windsor.

About this tyme, Sir John Dalrimage's eldest sonne, a young boy of 10 years old, without designe, shot his younger brother dead with a pistol he found lying on the table.

On the 3<sup>rd</sup> of May 1682, (the same day whereon in the year 1679 the late Archbischop of St. Andrews was murdered) happened a tumult in Edenbrugh, which lasted 2 dayes. The occasion of it was, on Johnston, son to the toun major of Edenbrugh, who was ane lieutenant or ensigne in the Dutch service, and some other officers, having seized upon some trades apprentices, and prevailed with them to consent to goe away as souldiers to the Prince of Orange, and particularly attempting to carry away some who had committed a ryot on the constable of the bounds, and ware theirfor imprisoned, ther commorads fell upon Major Johnston, and beat him, and extorted a promise from him that he should set these youths at liberty. But he, instead of performing theirof, the next day got some of the King's forces out of Lithgow and Mar's regiments to accompany and conduct these prisoners safely to the ships lying ready in the road of Leith to transport them. Whille they are going doun the streets, some weemen and tradesmen cryed to them, " Pressed or not pressed," and they answered that they ware pressed, whereupon they began to throw stones and other such materialls at the souldiers; and when they came towards the Nether boll, the rabble and commonalty gave them a shreud attaque, and by what was thrown at them furth of windows and from the houses that they ware their building, the King's forces ware exceedingly assaulted and abused;

wheirupon Major Keith gave them command and orders to shoot amongs the multitude, which they did, and their ware about 10 or 12 innocent peopple, (none of them who occasioned the uproar but by-standers) some men and others weemen, killed by this shoot, wheirupon they disappeared. Yet hearing ther ware some privy counsellors met in Sir George Kinnaird's chamber, they insolently came and threw in stones at the glasse windows, which was worse than the offering to rescue ther neihbours. Therafter 3 of them was apprehended, whom his Majesty's advocat resolved to get hanged for examples as ringleaders ; and on the 6th of May pannelled them in a criminall court for presence and acceffion ; but the Affise would P. 35. not find them guilty ; (de quo plura, in my folio Law MS. marked [E.], at the 6 of May 1682, p. .) The magistrates ware much blamed for ther cowardlineffe and flouth in not suppreffing this tumult, and the allowing the King's forces to enter the toune, (as if they could not manage ther oune affairs and compesce uproars within themselfes,) contrarie to ther pri- viledges, and so giving occasion to shed more blood then has been at once theffe 60 years done in the streets of Edinburgh. The Privy Counsell or- dained an indytment to be raised against them, concluding that they ought to be deprived for ther maleverfation and negligence. It was proposed that the Provest, or Dean of Gild, as head of the merchands, should find caution for ther keeping the peace under the pain of 50,000 merks, and that the Deacon Conveener should doe the like for the trades. The citi- zens in this affair, especially the crafts, ware exceedingly dissatisfyed with ther magistrats' carriage. (See more of this affair, in my folio Law MS. marked E, at the 7 and 13 of May 1682, pages 256 and 258.)

On the 3rd of May 1682, the Duke of York parted with his Majesty, and took shipping on the 6t. of May, about 5 or 6 of the morning, being Saturday, the Gloucester frigat (in which he was) fell by negligence and bad conduct or designe on theffe shelves or banks of sand within 8 or 9 leagues of Yarmouth (which is the nearest land), called Limon ore (Lam-

mer), and was there broken to peices; though it was a strong man of war mounted with 56 canons and could have carried 10 more. The Duke of York and sundry others escaped by the boat, as Winton, Perth, Midleton, &c. But ther was about 150 persons drowned, wheirof 80 ware persons of quality or gentlemen, and the rest seamen. Of Scotsmen ware drowned the Earle of Roxbrugh, the Laird of Hopeton, Sir Joseph Douglas of Pompherston, Mr. James Leviston do&or of medicine, Patrick Gordon President Haddo's cousin and servant, Mr. James Lidderdale attendant on Roxbrugh, with many others. The Lord Obryan perished also heir. The President, Sir George Gordon of Haddow, now Lord Chancelor, narrowly escaped drowning. It was a lamentable and fatall accident, charged by some on their unnececcarie attendance on ane unfortunat Prince, who hath very bad luck at sea. The pilot was a Scot, on Aird in Borrowstounnesse, who was threatned with hanging for going to sleep, and giving wrong directions to steer; though he defended himselfe, however, he was referred to a martial court of Admirality when they should returne to England, which was *locus delicti*. At last, he was condemned to perpetuall imprisonment. The Duke arrived at Leith on the 7t. of May at night, in the frigat called the Happy (Speedie) Returne, wheiron ther ware great outward expref-  
sions of joy, by canons, bells, &c.

On the 8t. of May, in the morning, at Privy Counsell, the Duke produced the King's letters patent constituting Sir George Gordon of Haddo President of the Session, to be Lord Hy Chancelor of Scotland, in place of Rothes deceased; which was a mighty wide step of advancement for him, at which the nobility grumbled in ther bosome, they having been now thesse many years in posseffion of that place, and thesse 60 years not interrupted by any but Chancelor Hay, a gentleman then created Earle of Kinnoull, and Archbischop Spotswood. His signator decided ane old controverfie betuen the Threasurer and Chancelor, who should preside in Exchequer; and ordains the Chancelor to have precedency in all courts ex-

cept the Exchequer, wheir the Tresurer principall is present. As the office lost in this, by falling in a gentleman's hand, so it's said the Archbishop of St. Andrews is appointed to have the precedence in all cases before the Chancelor; for which ther was a letter formerly, but Glencairne P. 36. and Rothes would never yeeld it to Archbischop Sharp. It's reported, that Chancelor Haddo is created Earle of Aberdeen. (Vide the 8vo MS. of Seffion affairs, marked I, page 67 et sequente, wheir ther are more pretty remarks.). The Marquis of Athol met with a great disappointment, for he thought himselfe secure of this office, and wanted not ground, having officiat as Chancelor in the laft Parliament. The Duke likewayes produced the King's superscribed signators; on, making the Marquis of Queansberry sole and principall Tresaurer of Scotland, and revoking and discharging the former commission of the Tresury to Lauderdale, Strathmoir, Atholl, Dun-donald, &c.; and another, appointing the Earle of Perth to be Justice-Generall in place of Queansberrie.

On the 11 and 12 of May theirafter, the Duke of Hamilton, Earles of Tuedale and Middelton, and Generall Major Drummond ware admitted Privy Counsellors. And on the fifteeen day of May, the Duke, with his Dutchesse and Lady Anne, his daughter, and ther wholl court and retinue, parted and shipped in at Leith for England; wheir they arrived on the 27th day of May theirafter at London, being long detained and crossed at sea.

Some began to compare my Lord Haddo's rising to be Chancelor to Oliver Sinclar's being advanced, as they apprehended, by King James the 5<sup>t</sup> to be Generall of all his forces at Solway Sands in 1542; wheirat the Lord Maxwel, and other nobility present, took such offence that they declined to fight; so that the English got a great victorie, meirly from the contempt the nobles conceavead at the advance of a small gentleman above them.

In the end of April dyed the Lord Roffe, at his house of Haulkhead, in the West.

In the beginning of May, ther was a great tumult fell out in Dublin

by the tradesmens apprentices their, against the Popish tradesmen and their magistrats, for tolerating them, like Demetrius' plea anent Diana's silver shrines. In this uproar some ware killed. It happened much about the same tyme with our hubbub at Edinburgh. On of the articles they craved was, that the Mass and Popish preists should not be tolerated as they ware; and they offered to instruct, that severall of thesse tradesmen, that had been receaved as if they had been poor, distressed, banished French Protestants, ware truely Papists, and seen at Messe, and who could have no other designe but of another massacre; and they also declared against a Popish successor to the Croun.

In May and June 1682, the affair of the Quo Warranto, was agane set on foot against the City of London, (de quo supra,) and the City having given in ther defences against it, they produced Charters from King John and King Richard, and others, giving the City the election of ther shireffs, and their shireffs the nominating the Jurie for Middlesex, with sundry other priviledges; wheirupon, the Court or Tory party, defisted at that tyme from prosecuting the said suit of the Quo Warranto. (Vide more pag. 49.)

On the 24 of June 1682, the wholle liveraymen (freemen) of the 29 free incorporations (companies) of London, met to chuse ther Shireffs for the ensuing year, and having polled, they found that Mr. Papillon and Mr. Du Bois, ware chosen by plurality, and not North and Box. Sir John Muire (Moor,) the Lord Major of London, adjourned the Court, and protested against it; but they, in a great tumult and uproar, proceeded, and ware very insolent against him. Wheirupon, complaint being made to P. 37. the King's Counsell, they immediately sent Mr. Pilkington and Shut, the 2 shireffs of the former year, to the Tower; but upon a Habeas Corpus they ware presently bayled and set at liberty, under the paine of £20,000 to appear. They are ordained to be pannelled, togither with the Lord Gray, Sir Thomas Armstrong, and Mr. Cornish, as encouragers and abettors of the said tumult; and the Chancelor told them, it wanted not

many degrees of treason to offer violence to the Mair, who is the supreme magistrat within London. The plea betwixt the Maire and the Whig party was, that he claims, in right of his office, a power to creat any he pleases to be on of the 2 Shireffs of London, by the ceremony of drinking to him ; and that all that belongs to the City and Common Council, is only to elect the other, and to confirme the person he hath choisen, but that they have no power to reject him, or choise another. And for proving this he adduces ane a&t of ther Common Counsell, anno 24 Elizabethæ Reginæ, mentioning that priviledge, like as the tenor of the writ for meeting imports this, that they are only to ratify his election of that on, and to choise another ; like the Dean and Chapter, who, by the King's *Congé d'elire*, can doe no more but confirme that person to be Bischop whom the King names to them. I remember Sir Richard Baker, in his Chronicle of England, (in the life of Henry VII. pag. [141],) tells, that Sir Henry [John] Collets, then Lord Mayr of London, drank to on Percival, his oun carver, and by that made him Shireff of London, and who afterwards came to be Mair himselfe. The discontented country party, who stood by the Cities priviledges, on the contrarie argued, that all his priviledge was only to prick doun any on he pleased, theirby to get him put upon the list of them who ware to be chosen ; so that they behooved to allow him a venture, if by plurality of suffrages he should carry it, but he had no power peremptorly to impose on upon them ; and wherever they had confirmed the person named by the Mair, by the records it appeared, he alwayes declared he past from his priviledge of naming on to be Shireff ; and esto, ther had been any such priviledge, it was now long ago fallen in desuetude. This was of great importance to the King, for the Shireffs (if they war weel affected to his Majesty,) they would impannell and call such juries as he ware satifisfyed with ; so that, when he minded to proceſſe Shaftesbury or others, he might get such affyors as might find him guilty, which hitherto he hes not been able to get.

The Mair had this year drunk to Dudley North, brother to the Lord North, as the person his Majesty trusted in, and aimed to have Shireff ; but the City (tho they put North in the lite) gave the maniest votes to the above mentioned 2 persons, who had both of them [been] on Shaftesberies jurie lately, and the on of them was forman, and had returned 'Ignoramus' for ther verdict. The Mair adjourned the Court, and ordained the liveray men to attend the 5<sup>t</sup>. of July nixt thairafter, to confirme North, and to ele&t another ; but they proceeded, and adhæred to the choise they had made themselves ; and on the said 5<sup>t</sup>. day, the Mair sending ane excuse of his being unweel, and craving a continuation, they proceeded of new to the pole, and declared the forsaid 2 persons to be Shirives ; which was judged a farder contempt. But the freemen deny the Mair hes power to dissolve or adjurne them without ther oun consent, till they had done the affair they met for. (Vide infra p. 50 in fine and 51.)

P. 38. In June 1682, we heard, that the great Duc of Mosco Emperor of Russia dyed, and that his brother, or brother's sone, a boy of 12 years old, was advanced, by the assent of the peopple, to succeed him ; which assent seims strange, he being a most absolut monarch, if not a tyrant. Yet ther was a great uproar among them about it.

About this tyme dyed the Lord Arbuthnot.

5<sup>to</sup>. Julij 1682. The Lords of the Seffion having met, the Chancelor produced his Majesties letters for making Neuton President of the Seffion in his roume, and Sir George Nicolson to be ane ordinar Lord in his place ; and Pitmedden was admitted on of the criminall Lords in place of Newton. See this at more lenth in my 8vo. MS. of Seffion occurrents, marked I, page 68 and seq.

About this same tyme, my Lord Halton returned from London, whither he had gone in the beginning of May, contrare to the desire of the Chancellor and Tresurer, who required him to stay and attend the Committee named by the King, for trying the coinage and mint. Upon his return

they proceeded very rigorously with him, and caused him peremptorily give in a paper containing a representation of the state of the Mint; wheirin he having couched his defences upon his exonerations, and the King's publick Amnesty and Indemnity in 1679, they urged him to signe it, to see if they could make it amount to a declinator of ther power, or draw him to a tacit acknowledgment that he had coined a quantity of copper beyond the 3000 stome contained in his Majesties warrands; and which definit quantity S. J. Falconer, and other officers of the mint, had upon oath already confessed was far exceeded by them many 1000 stomes. (But see this deduced at more lenth, in my folio Law MS. marked G, at the 12 of May and 31 August 1682, pag. 257 and 2 .)

About the same tyme, the Duke of York caused his Attorney pershwe Pilkington, on of the Shireffs of London, on the statute of Scandalum Magnatum, for £10[0],000, dammage, that in the Parliament held at Oxford in March 1680, he being a member of the Lower House when the bill of seclusion against the Duke of York, was passing, he moved, that besyde the generall narrative and reason of the Duke's being a Papist, they might also insert this, that he was on the Plot, and forknowledge of the Papists burning the city of London in 1666; therfore, the Duke craved he might be fyned in £100,000 sterling. When this cause came to be debate, he offered to prove the Duke's accession to that fyre, and therfor craved to be assoilzied, which was a bold defence; but *veritas convitij non semper excusat a convictio*; only what is spoke in Parliament is not properly Convitium. If the Duke prevail, he hes reason to be afraid. (Vide infra the sentence, p. 44.)

In August, the Dauphineffe of France, (who is the Duke of Bavaria's fifter) was brought to bed of a sone, who is designed the Duke of Bur-gundy. They say, thesse severall hundred years the French kings never lived to see a grandchild of ther oune body, till this King.

About the same tyme, the Dutcheffe of York was brought to bed of the

child conceaveed in Scotland (de quo supra, p. 32,) which proved a daughter, P. 39. and was baptized Charlotta Maria. On the news of it ware great semblances of joy made at Edinburgh ; and a comet appeared for 2 weeks at the very tyme, but was nothing so big as we had in December 1680, (supra pag. 6, 7, & 8.) I have seen a late French book proving that comets prognosticat nothing that's fatall or dangerous, but rather prosperous things ; yet, at the same tyme it shone, the Duke of Lauderdale, that great minister of state, dyed, (de quo infra, 24 August.) This daughter of the Duke's dyed in the beginning of October 1682.

24 of August 1682, dyed John Maitland, Duke of Lauderdale, the learnedest and powerfulest Minister of State in his age, at Tunbridge wells. Discontent and age ware the ingredients in his death, if his Dutchesse and Physitians be freed of it ; for shee had abused him most grossely, and got all from him shee could expect. The Duke of York and he differing together, he, with sorrow and anger, saw his influence with his Majesty everie day diminishing, though the King was so generous as not to desert him to the malice of his ennemis, who offered to accuse him for his life ; but the King would not give way to it. Yet Lauderdale, some weeks before he dyed, was heard to regrait, in Cardinall Wolsees words, that if he had been as faithful to his God as he had been to his King, he would not have shaken him of in his old age, as his master, and his brother the Duke of York, had done : see Baker's Chronicle of England, in the life of Henry VIII., page [40]. And he minded, that he had waited on the King to and from Oxford, in March 1680, when many turned ther back on his Majesty. It ware to be wished that this would be a beacon and example to other Statesmen. The Duke of York was certainly most ungrate to Lauderdale ; for Lauderdale was the first who adventured, in August 1679, to advise the King to bring home the Duke of York from Flanders, wher he was then living, and which counsell contributed much to the Duke's advantage. It's true, Lauderdale's main aime (and so it is all great men's

designe to uphold themselfes) was to preserve himselfe, for he fand the Duke of Monmouth, (who then ruled all with the King,) and the Duke of Hamilton, ware combining in a knot to break him, and he saw no expeditor way to disappoint them, then by bringing in a 3rd. Then, when England was found too hot for the Duke of York, Lauderdale again advised him to goe and stay in Scotland, rather than Flanders, and promised to cause all his freinds and party ther (which was great,) to attend his Hynesse, and do him homage; and he did so, but he lost his oun party by it, and the Duke made up a mongrell party of his oun in Scotland, partly composed of Lauderdale's freinds and of others, new ones, whom York assumed. And this second counsell, sending the Duke to Scotland, conduced exceedingly to the fortifyeng of the Duke's party in England.

The great thing that implacably angred the Duke of York at Lauderdale, was, his voting the Viscount Stafford guilty of the treasonable Popish plot in the Parliament in December 1680; and that *cum elogio*, as he was a good Protestant, *hinc illæ lacrymae*. From that hower he eyed and hated him, and broke his power and party all he could: so he dyed seasonably for his oun credit. But all perfones cryes shame upon him for ruining the memory and standing of his family, by giving away Dudifton, &c. in property to his Dutcheffe, and Leidington to hir son Huntingtour, (thought by some to be his oun.) Leidington was not honestly purchased, for it belonged of right to the grand-children of William Maitland, his grand-<sup>P. 40.</sup> uncle, and Secretar to Queen Mary, and who lived in Rowan in France, and to whom the Duke of Lauderdale paid a small yearly penfion. (See this, and fundry other things of the names of Maitland and Hamilton, in a 4to. MS. marked        pag.       , from the Duke of Roan's testimonie and Spanhemius.) Though in one fence we may use David's words of Abner, (2 Samuel, cap. 3. v. 38,) that in Lauderdale's death a prince and great man has fallen in our Israell; yet we may weel apply what is said of the

same Abner (v. 33, ther,) to Lauderdale, that he dyed like a fool, by the hand of a woman, as Abimelech and Pyrrhus, murthering the memorie of his family and estate. But the Spirit of God tells us, (Jeremy 17, v. 11,) they who get riches, and not by right, shall leive them in the midst of ther dayes, and in ther end shall be a fool; so we are to remark the event of this purchase the Dutchesse hes made in abusing her husband.

In the end of October, the Duke of Lauderdale's corps arrived in Scotland, and ware set in Inuerek church; and he was buried on the 6<sup>t</sup> day of April 1683, at the church of Haddington, beside his ancestors, and the Bisshop of Edinburgh preached his funerall sermon. (See more, infra page 50.) His Dutchesse pressed to have him buried at Lauder, that his lying at Haddington might not seeme like a symbolicall possession of that interest their, now disponed to her.

As for the many places and offices of trust Lauderdale possessed under his Majesty, they ware all filled and disposed thus:—His place as being a knight of the most honorable order of the Garter, was given to his mortall ennemy the Duke of Hamilton, which speaks the wain inconstancy of all fluid things;—How would it fret Lauderdale if he could lift up his head and see Hamilton succeed him in that stall, whom he had persuaded the King to be a disloyal factious man! But his Majesty, being facile, forgets thesse characters, and sends for Duke Hamilton, who went to London in October. His place of President of the Privy Counsell, was given to [the Earl of Linlithgow]. His Secretaries place, he had installed the Earle of Murray in it about tuo years ere he dyed, but all that while he had reserved the £1000 sterl<sup>g</sup> pension annexed theiro; and instantly on his death, the Earle of Middleton (whom Lauderdale had keeped out all his tyme,) was added by the King as his conjun& Secretary for Scotland. (See alibi, of the debate of præcedency betuixt Sir Archbald Atcheson, 2d secretary, with my Lord Stirling Alexander, and Sir Thomas Hope then King's advocat.) His office of Governor of the Castle of

Edinburgh, was bestowed on the Marquis of Queansberrie, Lord Hy Threfurer; and Major White was made Deputy governor or Conftable in place of Drummond of Lundie, now made Lord Trefurer depute, upon Halton's removall from that place. Drummond, Earle of Perth, was installed in his place, as on of the 4 extraordinarie Lords of the Seffion; and his governement of the Isle of the Basse, also given to Perth, was annexed to the Croun and Exchequer. His office of being Shireff principall of Haddinton or Eift Lothianshire was given, in May 1683, to the Earle of Winton; who choised Sir John Ramsay and Haliburton of Inch-cairney his deputs. And his being on of the Commissioners of the Treasurie ceased, and became extinct in May last, when Queansberrie was made sole Hy Treasurer, and the Duke of York took his Commiffioner's place over his head. So that we see, between him and his brother Halton, and his sone, ther has been a numerous accumulation and suppression of great and confiderable places of truft, which, if rightly distribut, might have pleased many exspectant prætenders.

31 August 1682. At Privy Counsell, a letter from his Majesty was P. 41. produced and red, declaring all the officers of the Mint's places void, and particularly Halton's as generall, and Sir John Falconer as master; in regard the King, with his Scots counsell, having confidered the report of the Committee, (de quo supra, pag. 38,) he found they had malversed and grofely exceeded ther truft, and therfor deprived them, and referred them to be perhued civilly or criminally for the fame, as his Advocat thought fitt. (See more of this in my folio Law MS. marked E, at the 31 of August 1682, p. 266.)

My Lord Halton's place of Treasurer depute was bestowed on John Drummond of Lundy, Perth's brother, and Major White got Lundie's place as Governor depute of the Castle of Edinburgh. Halton's place as a Lord of the Seffion was given to John Wauchop of Edmiston, brother to Nidrie. His office as Shireff principall of Mid Lothian was bestowed on the Earle of

Dalhousie, whose grandfather possessed it till his death in 1672, and then Halton got it; but Dalhousie dyed before instalment. (Vide *infra* p. 44.) And then the Shireffship of Mid Louthian was given by the King to the Earle of Aberdeen, Chancelor, who entered in December 1682.

Thus Halton, and in him we may safely conjecture the power of the Maitlands fell for this age, little regarded, being so misfortunate, that, by his insolent and disobliging behaviour, he acquired many ennemis, especially amongs the nobility, and had but few freinds, and yet was so blinded with a confident security that he was in favour, and the Duke would not desert him, till the very blow, unexpectedly to him, surprized him. Though the Duke was sensible eneugh, that Halton had very officiously waited on him, and prosecute all his desigues, yet he fand the ouning of him in the last Parliament, when Kipperminshoch accused Halton of perjurie, was heavy both to him and to the governement; and that Halton's violent way of interessing himselfe in carrieng on the Duke of York's concernes, was so far from advancing them, that it raised up ennemis, both in the Parliament and country, to counteract the Duke, meerly in odium to Halton; and that if he did not espouse thesse things so feircelie, ther would not have been so much opposition made to them; and the Duke had no reason to let his affairs ather suffer or be retarded, because they ware manadged by Halton, who was so universally hated that any thing he attempted was disliked, though for no other reason than for his oun sake, and that he had a hand in it. And he was a man who, in case of intestin commotions, could bring no following to help the Duke in the feilds, and had no rooted interest in the country. Thir ware the things that the courtiers, Halton's ennemis, answered, when thosse who ware indifferent accused the Duke of York as ungrate to Halton, who was so vigilant in promoting all his affairs, and was wakin busily for him many a tyme, when the significant men now ware sleeping and doing nothing; and whatever he demerited at the country's hand, yet he deserved nothing but the best

rewards from his Royall Highnesse, to whom he had been so obsequious, and had scrued the prerogative and the church governement to the hyest pitch it could admit, wheirby, though he had lost the affections of the peopple, yet he merited weel from his prince. But they urged, on the contrary, that all thosse services, wheirin Halton officiously intruded himselfe, though they commended his zeall, yet noways his prudence and conduct; and though he resolved therby to make himself appear usefull and necessar to his Majesty and the Duke, and to ther governement, yet in effect he was but a log and burden to both, and created them personall ennemis, wheir otherwayes they would have had none. Yet so tender was the Duke of York in laying him softly aside, in regard he had boasted much of his serviceableness to the King, and that generally his errors enclined P. 42. in favors of the croun against the country, and for avoiding the tach of ingratitude, though he knew it would displease few to use the King's absolute and arbitrary power by the late cumulative act of jurisdiction in 1681, to remove Halton; yet, to vindicat and justify the fact, the Duke was advised to doe it rather *per modum justicie* then *ex plenitudine potestatis*, and to raise a process against him, and upon malverstations to deprive him, that none (who confiders he was deposid upon just reasons proven against him) may be discouradged to serve the King, or fear they may get the same reward, after they had incurred ane universall odium for ther zeall in serving him. And thus, albeit it would have been both more safe and creditable for Halton to have been laid asyde without giving him a reason, yet it was judged more politique to gull the peopple, that ther should be a semblance of justice, compelling his Majesty to do that, which otherwayes he would have been loath to have done to any who had served him so fervently. They ware, however, resolved to be rid of him; but a good pretext offered, on his brother the Duke's death, that he, falling to be Earle of Lauderdale by the tailzie, could not properly continue ather to be Tresurer-depute, or a Lord of Seffion. And ther ware 2 remarks on it;—primo,

That the King's letter against him was signed that same night his brother the Duke dyed ;—secundo, That the letter was red and intimat on the 31 of August, which very day 12 moneths he and his sone, the Justice Clerk, ware very active and busie in carrieng on the fatall act of the Test which is dated the 31 of August 1681 ;—And this is ther thanks.

Halton, suspecting that a bill of ease was coming against him, offered, the day before, a dimission of all his offices in my Lord Chancellor's hands ; but he, knowing it would come another way, declined to accept their-of. It was also at this tyme, in the beginning of August, designd to stain him with briberie, in taking 14,000 merks from the tacksmen of the Excise of the Louthians, for his vote, and being instrumentall in procuring them the tack. (But see how this is manadged in my folio law MS. E, page 263, et seq. Item, anent his being suspended from all his offices see ibidem, p. 266.)

In the month of September 1682, ther was great stir in London anent the Shireffs (de quo supra, p. 36 & 37). The King and Tory party ware for North and Box ; the City and Whigs ware for Papillion and Du Bois. Box being timerous would not hold, but payed his fyne ; wheron Sir John Moor, Lord Mayor, prefixed a day for choising a new Sheriff in his roume ; at which the most part of the liveray men met, and protestft ther could not be no new election, in regard they had choisen 2 already ; notwithstanding, the Mair, with about 30 freemen, proceeding to a new election, choised on Captain Rich in Boxe's place, though ther ware 1000's of the freemen protestft against it. Yet, having the King's authority to back him, he obtained the saids 2 persons to be sworne, confirmed, and admitted to be Sheriffs for London, the citizens resolving not to be provoked, by any arbitrary usage whatsoever, to rise in armes, or to mutinie, knowing ther ware some who desired no greater advantage of them, but intended to try the illegality of the Majors procedure at law. This point, which the P. 43. Duke of York hes gained, contrare to the City of London, was by some

judged nowayes the King's interest to lose his subje&ts affections, but that he was forced to yeeld many things to his brother and the Popish party, contrary to his oun inclination, meerly out of fear leist they should kill him and rob him of his life.

The Duke of York, finding he had carried the Sheriffs, and got them put in possession of the exercise of ther office, he caused arrest the Duke of Monmouth, as he who travelled up and doun England convocating the peeple, making himselfe the head of a party, (as he did lately at Chester,) to the terror of his Majesty and his good subje&ts, and to the weakning of the governement; but he was released on caution. It was reported, that the Earle of Shaftesberrie had fled; and many scurril pamphlets followed him.

At Michaelmas, the 29 of September 1682, the Aldermen and freemen did meet to elect and choise a Lord Mayor for the year ensuing, in the City of London, wher 4 persons fell in competition by nearnesse of votes; viz. Sir William Prichard, on Tulse, on Gould ane independent, and Mr. Cornish, who had been shireff 2 years agoe. The Whig country party ware for the 2 last, for whom sundry hundreds of Quakers had voted. But a scrutinie being appointed to try the legality and capacity of the voters, thesse scrutineers, after the pole, and comparing and examining the books and registers of each companie and corporation of the livery men voters, they found sundry of them who had voted had no freedome at all; others of them, especially amongs the merchants, taylors, and glovers, had not tane the City oaths, and so could not vote; others would take no oath at all, such as the Quakers, and so ought to be rejected. This a&t lost the Quakers some of the favour they formerly injoyed, both with the King and the Duke of York, though many suspected the craftier of them as only disguised Papists in mascarade. At last it was found, that Sir William Prichard had the maniest uncontroverted votes, ther having 2,190 voted to him; and so he was declared and admitted Mair, he being the

person the King aimed at. Some alledged, that the freemen should not be abridged of ther liberties of voting, for choifing ther magistrats, by oaths imposed on them ; though we in Scotland are fettered in that case with declarations, oaths of alledgeances, tefts, &c. (See the Canon Law, *De Electione per scrutinium facta.*)

Theirafter, the saids discontented citizens raised a proces before the Judges of the King's Bench, to have Du Bois and Papillion declared Shireffs of London ; in which the Judges ware ather so conscientious, or so overawed with the rabble, that they iſhued out a writ called **Mandamus**, for f swearing theſſe 2, Du Bois and Papillion, as the 2 legally elected ſheriffs ; but the Duke of York, by his moyen, got it ſtopt and delayed that terme.

About the 20 of November 1682, ther happened a great fyre at London, amongs the ſeamen's hamlets at Cinnamon ſtreet in Wappin, wher near 1000 houſes ware brunt doune, (by accident or otherwayes, not certain;) and ſome peopple, in blowing up the houſes to intercept the fyre, ware killed.

P. 44. About the ſame tyme, we had a report of a famous Scots jesuit, called Father Abircrumbȝ, confessor to my Lord Nithſdale's family, that at London he had deserted his religion and turned Protestant, and in wryting had given the reaſons of his change.

In the end of November 1682, the Earl of Shafteſberry, though very infirme and aged, yet, for fear of his life, fled over to Holland. And at this ſame tyme, the King made a creation of ſome English noblemen ; as the advancing the Marquis of Worcester to be Duke of Beaufort ; and the Duke of Ormonde to be ane English Duke under the ſame ſtyle ; and the Lord Hide to be Earle of Rocheſter, the male iſhue of Wilmot, Earle of Rocheſter, lately deceaſed, being extin&t, and ſo the title and honor re-turned to the King ; and Sir George Kinnaird in Scotland, to be a temporall Lord, called Inchſture ; and Sir George Gordon of Haddo, Lord

Chancelor of Scotland, to be Earle of Aberdein, Vicount Formairton, Lord Haddo, Fetherick, Tarvas, and Kellie.—Providence suffered Rotchester's memory to extinguish, because of his bad atheisticklife, though he dyed repenting. (See G. Burnet's account of his life.)

On the 29 of November 1682, dyed William Ramsay, Earle of Dalhoussie, at his oun house. His Lady, the Lord Muir in Ireland his daughter, married the Lord Ballenden, the late Roxburgh's brother, within 3 or 4 moneths after this.

At the same tyme, dyed Prince Rupert, Duke of Cumberland, unckle to the Elector Palatin, aged 63. In the dissecting him they found a big stome in his bladder or ureter, which certainly would have gravelled and pained him, but the water had perforated it in the middle; as also, in the substances of his heart and brain they found 2 bones;—which ware very extraordinarie remarks.

In the moneth of November 1682, some persons inхappily ware so far seduced by Satan with us, that they became ther oun bourreaus and executioners. On John Falconer of Fesdo, lait warden of the Mint, from ane apprehension of hazard, (because he was ordained to be pershued for malverstations in his office with my Lord Halton, &c.,) he hanged himselfe; and on William Couper, a wryter, young man, did the same at Edinburgh; and on Wilson, a tennent at Falkland, drouned himselfe;—which are bad omens and prognosticks.

At the same tyme, Shireff Pilkington is fyned at London, by the jury, in the summe of ane hundred thousand pounds sterling, (a waft summe) to be payed to the Duke of York, as dammages modified against him in the pershuit on the statut of Scandalum Magnum, (of which see supra, p. 38.) And besydes the words their spoke, it was farder libelled, that he had thir expressions in Aprill last, when the Common Counsell of London met to see if they would send any to welcome the Duke of York's safe arriveall from Scotland to Newmarket, in England; “ What, (said he) shall we send

P. 45. to congratulat a man who brunt our city, and is come to cut the throats of our wives, children, and selves!" The expressions ware fully proven against him by Aldermen present, tho' his counsell at law studied to divert the words as only spoke by him against the Papists in generall. They report the fine is about the half of his estate. He has entered himselfe in prison, and so, by the English law, they cannot both detain his person, and affe&t his estate.

All this summer, the Hungarian Protestants (commonly designed the rebels of Hungary) have been in armes against the Emperor of Germany, ther lord and master, under the command of Count Tekelie as ther generall, because the Emperor had broke to them the *leges regnandi*, and his capitulations, wheirby they ware to have the free exercise of the Reformed religion; and he, at the Jesuits' persuasion, had tane ther ministers and put them as slaves in the gallees, and had cruelly oppressed themselfes; and upon thir, and other grounds, they justified their rising, (see G. Burnet's Conferences anent the Church of Scotland, p. ,) and got the Turks to oun and affist them; and in fundry skirmishes and rancounters with the Emperor's forces, they had the better, and took fundry forts and touns. (Vide infra pages 52 & 56.)

In November and December 1682, our Bishops prevailed so far with our statesmen, that they obtained a warrand from the Privy Counsell to depose and silence all the tolerat ministers, who by connivance had preached ever since the restitution of Bischops, without acknowledging them and ther governament; by which the Bishop of Edinburgh deposed in his diocese thir 5, Mr. Thomas Ramsay, minister at Mordington, Mr. John Weitch at Westruther, Mr. John Macghie at Dirleton, Mr. John Sinclair at Ormiston, and Mr. Thomas Paterfon at Borthuick; and the Hy Tresurer gifted ther different escheats to Hew Wallace, because they had preached after the 1 of January 1682, without taking the Test, contrare to the late act of Parliament. The rest of the Bischops took the same

course with any such in ther bounds. They have not yet medled to dispossesse thosse ministers as ware admitted by the Privy Counsell on the King's Indulgence; but we know not how long thesse few may be spared, seing they are not excepted furth of the a&t of the Test more then other ministers are.

On the 15 of December 1682, three men called Robison, Finlay, and Cochrane, ware hanged at the Graffe-mercat for disouning the King's authority, and calling him a tyrant, &c. (See more of this in my folio Law MS., at the 11 of December 1682, page .)

On the same 15 of December 1682, dyed Weymes Lord Bruntiland, husband to the aires&s Countess of Weymes.

On the 20 of December, the Earle of Aberdeen, Chancelor, was installed Sheriff principall of Mid Louthian, by a letter from the King, in place of Dalhousie, lately dead, who was but entering to it in Halton's roume; so that he is Shireff both in Aberdeen and heir. (See the 8vo. Session MS. marked , page .)

About this tyme, dyed Sir Heneage Finch, Earle of Nottinghame, p. 46. Lord Chancelor of England, aged 61, a man of great moderation and eloquence; and for the first qualitie the Court was beginning to weary of him. The Lord North, on of the Cheiff Justices of the Common Pleas, is made Lord Keeper of the Great Seal of England in his place; and Pemberton is translated to the Common Pleas, tho' leffe honorable, yet more lucrative; and the learned Sanders gets his place of Lord Cheiff Justice of the King's Bench. (Vide infra p. 51.)—In September 1683, North is created Earle of Guildford, and gets the title of Chancelor; and succeids in this title of Guldford to Lauderdale, and Lady Jean Graye's husband, in Queen Marie of England's reigne, who was headed.

On the 29 of December 1682, on Alexander Home, a small gentleman in the Merse, was hanged at Edinburgh (tho' in Christmas week, in imita-

tion of the Vicount Stafford, execut at London the same day in 1680,) for commanding a party at the insurre~~ction~~ of Bothuel-bridge, tho' he came not that lenth. He dyed more composedly and pioufly then others of them doe. It was thought, that ther was blood eneugh shed on that quarrell already, and it being once stemmed it shoulde not be set to bleed afresh: for they are like Sampson, they kill and persuade mo at ther death then they did in ther life. And some Bischops interceeding for him, (which was said to be but ther common, he dying for ther cause,) the Chancellor refused him a reprieveall. He who apprehended him, seing him condemned, dyed of greiff.

## ANNUS 1683.

THIS yeir began at Edinburgh with the imprisoning a great many merchands, &c. for not frequenting the Church, and for baptizing ther children by non-conformists ministers, and for not paying ther fynes, some of which ware 1000 merks. And this fruitlesse kind of perfecution (which, tho' it drove many of them to the church, yet compelled prayers are not worth, force making but hypocrites, and the church like a prison house to them,) was also used at London at this same tyme against the Disfenters; only, it was remarked, that the Papists and Quakers ware not troubled. (See Samuel Bold's Sermon against Perfecution, beside me, on the French King's persecuting the Protestants ther.)

Tho' we change the governors, yet we find no change in the arbitrary governement. For we are brought to that passe we most depend and court the Chancelor, Treasurer, and a few other great men and ther servants, else we shall have difficulty to get ather justice or dispatch in our actions, or to save ourselves from scaith, or being quarrelled on patched up, remot, and innocent grounds. This arbitrarie way Lauderdale attempted, but did not attain so great a lenth in it as our statsmen doe now; and they value themselfes much in putting the military and ecclesiastick laws to strict and vigorous execution, so that, let souldiers commit as great malversations and oppressions as they please, right is not to be got against them. Witnesse John Cheisly of Dalrye's usage with Dauer and Clerk, in the King's troup; and Sir John Dalrymple's with Claverhouse.

I confess the obstinacy of thesse peopple who hitherto withdrew from the

P. 47.

Church, seems to have been from no principle of conscience which could bear the stresse of persecution when it came, but meerly proceeded from this, that they saw they ware connived at and unnoticed ; and theirfor, now we see, rather than pay any more fines, they croud unto the Church; wheiras, if hearing the present ministers ware a fin, the fear of money should not alter the case with them, but so long as they could hear Conventicle preachers with safetie they preferred them as the cleanliest. However, the Bishops and ther followers, with the ministers, did not stick to reflect upon the former governors of our state, (meaning Rothes, Lauderdale, and Tuedale, &c., men whom they durst not once accuse when alive or in power, tho now cowardly they backbite them,) that by ther connivence and remissnesse the Phanaticks ware imboldned to desert the church and run to conventicles; wheiras, now, ther being governors of fidelity, knowledge, and courage, they give a seeming obedience to the laws ; which flattery was designed by them to cry up the present Chancelor for his severity to the discontented party.

About this tyme, we had the news from Tangier, that Muley Hamet had got ane army togither in Fesse, against his unckle the Emperor of Morocco, who had seazed upon and invaded his right of succeffion ; and that he had defait his unckle's army and killed him in battell, and was establisched Emperor.—The killing his unckle was afterwards reported as uncertain.

The King of Spain began the year with a sumptuary law, discharging any of his subje&cts to wear any cloathing or apparell, save what was made, and of the product of ther ounre countrie. This frugality resembles our late A&T of Manufa&tories in 1681.

This year we ware allarumed with ane strange conjunction was to befall in it, of the 2 planets, Saturne and Jupiter in Leo, observed by Argol and other Astronomers, and our prognosticators who all spoke of it as a thing very ominous, and which had only happened twise before, since the creation of the world, and portended great alterations in Europe. And from

England ther came some observations on the late comets, which promised a furder treatise called Catastrophe Mundi; (see the observations besyde me,) all which helped to fright timorous melancholy peopple; and Mr. George Sinclair, the mathematician, did also call this planetary conjunction a very terrible on, in his Description of the weather glasse and hygroscope. Our winter, from November 1682 till March 1683, was rather like a spring for mildnes: if it be to be ascrybed to this conjunction I know not. (Vide infra p. 55.)

Mr. John Meinzies, minister at Aberdeen, having been called by the Magistrats of Edinburgh, to be ther Professor of Divinity, in place of Mr. Laurence Charteris, who refused the Test, and having come over to Edinburgh, the Bisshop and he not agreeing, he refused to accept the call and went home. The reasons ware thought to be, That tacite restrictions ware required of him, not to preach zealously against Poperie, or ther plots and conspiracies against princes; 2<sup>do</sup>. Some of the ministers of Edinburgh defire none of more learning or probity then themselves to be preachers with them. On Mr. John Strauchan is called by the Magistrats in his place.

In this moneth of Januar 1683, was discovered accidentally, by the removing some seats in the Church of Halirudhouse, the vault on the south-east end of the Church, wheir the body of King James the 5<sup>t</sup> lyes buried. Skeen and others, in ther Chronologies of the Scots Kings, tell us, he was buried at Halirudhouse, but the lenth of tyme and negligence had worne the particular place out of the memory of men. It was knownen to be him by the inscription on his leaden coffin. I had the curiofitie to goe and view the reli<sup>t</sup>s of that gallant Prince. In the pend or cell ther are six lead coffins. The first is King James the 5<sup>t</sup> who dyed in the year 1542; P. 48. but Drummond of Hawthorndene, in the very end of his life, tells us, this is not the place wher he was first interred, but that King Henry the 8<sup>t</sup> of England's army having defaced his tomb and monument, he was transported into this vault by King James the 6<sup>t</sup>, and reimbalmed; which ap-

pears by the freschnesse of his body and the liquor about him. The second is his first Quean, Magdalen, daughter to Francis the 1<sup>st</sup>. King of France, who dyed in 1537. The third is Henry, Lord Darnely, father to King James the 6<sup>th</sup> and Quean Marie's husband, who was strangled in 1567: by his body he appears to have been a very tall proper man; others call this bodie Seigneur David Rizio's, the Italian Musitian's. The 4<sup>th</sup> is Ladie Jean Stewart, bastard daughter to King Jaines the 5<sup>th</sup> and Countesse of Argile, who dyed in 1587. The other 2 are some of their children.

This was a humbling mortifieng fight, and a great instance and document of mortality, and vanity of the world; all the glory of that sprightly Prince being crowded into this lowly cell, *Mors sceptra lagonibus æquat: Mors æquo pulsat pede pauperum tabernas Regumque turres: Et sic tranfit gloria mundi.* Many ordinary persons have better buriall places now, then what this magnanimous restles Prince hes got. If our thoughts deschended ofter unto the charnel house and sepulchres of our ancestors, their dust (the greatest their not being distinguisable from the meanest, as Lucian in Dialogues wittilie represents,) would serve to lay the peacock feathers of our vain proud aspiring proje&ts, which we lay in such a train as if we ware immortall. (See this prosecute alibi.) And it might have the same effect on us, which Virgil, (libro 4 Georgic.,) tells us, the sprinkling a little duft on bees hes, *Hi motus animorum atque hæc certamina tanta, Pulveris exigui jactu compressa quiescent.* All the inhabitants of that dark walley have lean and pale cheeks, hollow eyes, fallen noses, and none of them wear the jewells and other deckings, with which they glistred when they ware on life: but notwithstanding of this dissolution, we most all rise again at the great day of accounts. Our Kings of old ly but very meanly intombed. Buchanan names some of them buried in Icolmkill, wher are also lying some of the Kings of Ireland and Norroway. I saw the tombs of King Malcolme and others in Dumfermeling church yeard. The English have the most part of ther Kings inshrinde at Westminster, wher I have seen ther monuments.

In the end of Januar 168<sup>3</sup>, dyed that unwearied statsman, at Amfterdam, S. Antony Ashley Couper, Earle of Shaftsberry, of the gout in his stomack, being a swelling ther, stopping the passages of digestion. His death afforded great joy to the Court party in England, againt whom he had conjured up a male-contented spirit throw England. However, it cannot be denied, but within halfe a year on of another, dyed 2 great Ministers of State of opposite sydes, the Duke of Lauderdale and he, to whom we may adde for a 3<sup>rd</sup>, Chancelor Finch. Shaftsberry had so disseminat his principles, that the Earle of Effex, Lord Russell, and many others, are able to carry them on though he be gone ; though some of that very party complained, he was too hot and insolent, though he studied to walk legally, that they might not reach his life.

On the 6<sup>t</sup> of Februar 1683, on Urre, a brewars servant in Leith, barbarously murdered his oun wife in the night tyme ; all he pretended was, that he was provoked by hir scolding and drinking. The P. 49. Magistrats of Edinburgh judged him, which shews that their jurisdiction of shireffship reaches over Leith ; and he having confess'd the fact, they sentenced his right hand to be cut of, and himselfe to be hanged on the 10 of Februar, on the Shirefbrae beilde Leith bridge, on the very confines betuen the Toune's territories and the Shire's. (See Carpzovius' Criminals, part page , shewing, a gibbet should not be so erected *in confinio* as that the shadow should reach another's land, that being a kind of indignity to him.)

In this moneth of Februar 168<sup>3</sup>, was argued before the Judges the case of the city of London's Charter of franchises by the Quo Warranto writ ; (de quo, vide supra, page 29 & 36.) That of ther right of shireffship was at this tyme waved, seeing his Majesty had carried the shirefs to his mind ; but the debate ran on 2 points, primo, that the city had, att her oun hand, without authority of Parliament, levied and raised money upon the citizens, for caulfay maills, and for liberty of getting out stalls, and for selling their

waires and commodities in the mercat places of the citie (called by our Skeen *pede-pulverosi* and *stallangiatores* chapmen) on the streets; secundo, for presuming by a petition to incroach so far upon his Majesties prerogative, as to advise him to call a Parliament, after he had discharged thesse petitions as seditious. Sir George Treby, recorder for the city, answered the King's Attorney, that, tyme out of mind, London had bein a free corporation, with power to make statutes and by laws for regulation of themselfes; and that any exactions they used were fortified with immemorall possession; and to the 2d<sup>d</sup> it was only a supplication, and if ther ware any fault in it, it could not involve any others but the actors into the guilt, for *nora caput sequitur*; and the franchises of the city could not be indangered by it. Though the Cheiff Justice Sanders seemed not fully satissfyed with thir defences, yet the matter was continued till Easter terme. (See page 51 infra.) And in another case, it being objected against the Jurie for the toun of Worcester that sundry of them ware not capable, because not freeholders; the judges admitted them leist ther should be a failance of administration of justice in that place for laik of freeholders, and therfor *in subsidium* they admitted others in ther place.

The English Dissenters craving a writ of appellation from the Ecclesiastick Court of Arches, wher they ware threatning to excommunicat them, the appeal was refused.

About this tyme, the river of Thames at London flowed tuise in a fornoon, and swelled to a prodigious height: this was esteemed ominous, for the like had not been observed save a litle before King James the 6<sup>t</sup> death in 1625. God preserve long our King! Ther was likewayes a great inundation happened at Harwich, drowning a part of the adjacent country; as also thunder and lightning, which is not frequent in winter, which had fyred the steeples of Yarmouth and York. 3<sup>to</sup>. And a serving man at Darlington, in some distracted fitt, killed 3 of his master's children, the eldest being about 15 years of age; and being apprehended, refused to eat

or drink. 4<sup>to</sup>. At this tyme on Le Maitre, a citizen of Paris, borne in 1565, and so 118 years old, dyed at Paris, and was a few weeks before very P. 51. healthful and vigorous. Nature once in ane age produces such ane on, but 100,000's ly by the way. (See Hackwell's Apologie for the Providence of God, page ; and our Buchanan, page 40, libro primo in fine, Historiae Scotorum, of our old Lawrentius going out in his fischer boat and leather canno at 140 ; and Par, brought up to London to (King Henry the 8<sup>t</sup>) Charles the 1<sup>st</sup>. See Baker's Chronicle, page 475 ; Plinij Naturalis Histor. libro 7, cap. 48.)

On the 2<sup>d</sup> of March 168<sup>2</sup> dyed Maxuel, Earle of Nithsdale, a papist.

About the same tyme, on Shelden discovered to the Duke of Ormond that he and others ware pensioners to Monsieur Louvoy, the great French minister of state ; and that the plot was to deliver up some sea tounes in Ireland to the King of France's fleet, which he pretended he was fitting out against the Algerines.

5<sup>to</sup>. Aprilis 1683. The Duke of Lauderdale is buried. (Vide supra, page 40, in margine.) The Bischop of Edinburgh (who was once his creature, but follows all courts,) preached the sermon at Inveresk ; the text was 1 Corinthi. 15, v. 55. "O death wheir is thy fling ; O grave wheir is thy victory." Any errors he committed, in the end of his days, he ascribed to the ~~impious~~ underrowers whom he trusted beneath him, meaning his Dutchesse and brother Halton. If he had dyed some years sooner he had got more pomp and elegies. At the buriall place in Haddington, on of the beggers called Bell, being drunk, stabbed another in distributing the money that was given them by the friends. He was apprehended, and several stollen things found on him, and he being made to touch the dead corps, the wound bled fresh ; the toun of Haddington, (who it seimes have a Shireff's power) judged him presently, and hanged him over the bridge the next day.

In May theirafter, came doun his Majesties pleasure and determina-

tion anent my Lord Halton and other officers of the mint; (which see in my law manuscript, page .)

On the 13 of April, was his Majesties letter proclaimed as to thosse who had conversed with rebels, distinguishing them into three ranks and classes of delinquents. 1<sup>o</sup>. Conversers wittingly and wilfully with forfault or denunced rebels. 2<sup>do</sup>. Conversers with them by a chance or accident. 3<sup>to</sup>. Conversers with such as are notourly knownen to have been in the rebellion, but are nather yet forfault denunced fugitives nor intercommuned: —And the punishments determined according to the degrees of ther guilt; and the 2 last are referred to the Privy Counsell, and the first to the Jufice or Circuit Court, which is to goe throw the Western shires in June nixt. (See, anent the point of conversing, the Laird of Blaikwood's proces, in my folio law manuscript, marked , at the 31 day of Januar and 5 of Februar 1683, page .) The King was willing to have granted a large indemnity; but the Chancellor thought such a favour unseasonable, and stopped it by sending up Claverhouse, who maintained that thesse indemnities imboldned them and did ill. Though they did not care much for citing Lauderdale's authority, yet they told the King what he said to Dundonald, regrating the depopulating the West by the Hyland host in 1678, "It was better ther country boor windlestraws and sandy laverocks then boor rebels against the King."

In the end of April 1683, dyed Dalyell, Earl of Carnwath.

In May 1683, the Lord major of London having pershued thosse who last year elected Papillion and Du Bois as shireffs. The persons mainly pershued and fyned (but many of them fled,) ware, the Lord Gray, Shut, P. 51. Pilkington, Bethel, Cornish, Waird, &c. Cheiff Justice Sir Edmund Saunders, and his brethren the Judges, found, that by præcedents the mair of London was in use to call and dissolve the city counsell without the shireff's consents, and so the electors and voters to Du Bois and Papillion ware ryoters and guilty of disobeying the mayr's adjurnement, and

theirby ware liable in a fyne for the ryot; which decision did much break the wings of that faction in the city, and was a point of great importance to the King, and which led the way to what he obtained against them afterwards. They urged, that a precedent might be given of his continuing prorogueing or adjourning the court. The Lord Cheiff Justice answered, that he who could dissolve, (which was the greater power) could not but by a consequentiall stronger argument, have the lesser allowed him of continueing.

After this, Sir Patience Ward, late lord major of London, is pershued and found guilty of perjurie, on this ground, that it was proved against him, at on tyme he sware, he heard not Alderman Pilkington (of whom *supra*, page 46) assert the Duke of York brunt the city of London, and yet at another tyme he had confessed, that when Pilkington uttered thesse words in his presence, he put his hand on Pilkington's mouth, and said, "Brother, you mean not the Duke fyred the city, but that Frenchman." Such ane extrajudicall expression with us would not infer perjurie, but the English punishment of it is easier then ours is.

In 3 June 1683, the famous plea of the Quo Warranto against the city of London's charter, was decided by the Judges against them, and they found to have forfeited and lost their priviledges of a corporation and society. But on ane addresse from the Mair and the loyall part of them, the King declared, he would grant them a new charter, with this clause, that if, after 2 nominations, made by them he should not be satiffyed therwith, in that case he should name and choise ther sheriffs and all ther other officers and governors; to which regulation they at laft assented and acquiesced: See all this in printed papers beside me. (*Vide supra*, pag. 49.) And after this bold decision, Judge Saunders stepped of shortlie after, by death, to appear and give ane account at a greater tribunall. (See him admitted, *supra* page 46.) In Saunders' place, the King puts in Sir George Jefferies to be Lord Cheiff Justice; and on Pemberton's depriveall he put in on Jonas. Pemberton turned a common pleader again.

The airs of the founders of Gresham Colledge ware now moving to be reponed to the rents, as caduciar, the Society being dissolved; but it was thought they fell to the King. In October 1683, because their toun counsell would not signe the instrument of surrender and resignation of ther priviledges to the King to get a new charter with limited franchises, theirfor the King entred and past the judgement of forfaultor of ther charter against them, and named all ther magistrats himselfe, and continued Prichard mair during his pleasure. It's said, they might not voluntarily resigne for fear of becoming lyable for all the mortifications made to the city: now it is like on of our brughs of baronies. Then he named Sir Henrie Tulse for mair.

In the beginning of June 1683, Gordon of Earleston, on who was forfaulted for being at Bothuel-bridge rebellion, is apprehended at Newcastle, with on Edward Aitkin, both going beyond seas, and they are sent doune by his Majesties speciall warrand to Scotland to be judged their. They ware going abroad to the forrain Protestant princes, in a commision from some of the præcise phanaticks of that syde to beg supply, as being beggered by our governors, who ware all become ather Papists or Athiests.

About this same tyme, Andrew Gulan, weiver in Balmerino, on who was present at the murder of the late Archbisshop of St. Andrews, was apprehended at Cockpen; and was execute for it on the 13 of July, and dyed very hardned and insensible of any guilt. (See my law manuscript at that day.)

On the 8t. of June 1683, while the Circuit Court was fitting at Stirling, and 5 of the King's guard ware conveying on Smith, a phanatick, prisoner to Glaigow, 7 of that mad persuasian waylays them beyond Kil-  
P. 52. syth, at Auchinrooch Inchbellie bridge, and rescues the prisoner, and kills David Murray, on of the party attending him, and wounds John Ballyntine, another of them. Tuo Lefmahaigo men, called Macquhirrie and

Smith, ware feazed upon, in Stevinson wood, upon a suspition of their ac-  
ceffion ; and, being of the number, ware hanged at Glasgow for this and  
other crymes made out on them, the 13 of June 1683. (See my law  
MS. at that day.)

In June and July, went the criminal Lords in Circuit throw the West-  
ern and Southern shires. (See it at lenth alibi, in my law MS., and supra  
page 50.)

In the beginning of this spring, Mahomet the 4<sup>t</sup>, Emperor of the Turks,  
emitted a blasphemous declaration of war against the Emperor of Ger-  
many ; (which see in print.) The Turk did commit great cruelties at this  
tyme, and besieged Vienna : (vide infra, p. 56, supra p. 45.) ;

In June, the rumor began of Prince George, brother to the King of  
Denmark, his marrieng of Lady Anne, daughter to his Royal Hyneffe.  
Sheffield, the Earle of Mulgrave was banished the English Court for  
pretending kindneffe to hir. They ware married on the 28 of July 1683 ;  
and Prince George was made a knight of the Garter theirafter.

About the 1<sup>st</sup> of June 1683, broke out that plot and conspiracie, at-  
tempted by Collonel Rumsay and some republican 5<sup>t</sup> Monarchy men,  
against his Majesty and his brother. But afterwards, it was found, that it  
was deeper laid ; for, upon the incoming of on Keeling upon remorse, and  
the apprehenfion of the Lord Howard of Escrick, he discovered, that it was  
managed by greater perfons, and that, after Shaftesberrie's flying, ther was  
a counsell of fix establiſhed for promoting it, viz. the Duke of Monmouth,  
the Lord Foord Gray, the Lord Russell, Sir Thomas Armstrong, Collonel  
Algiron Sidney, Mr. Hampben younger, and my Lord Howard himſelfe.  
(The King has given Keeling a remiſſion.) The deſigne appears to have  
been to proſecute the affociation to diſappoint the Duke of York's ſuc-  
ceeding to the King, and to affault the King's guards, and then to  
have made themſelues maſters of the King's perſon, not to kill him, but  
to neceſſitat him to call a Parliament, ena& what they craved, declare

his brother a traitor, and simply to give himself up to ther counsells and dire&ions. Yet it may be feared, they would no more have stopped heir then with his Father, his prison and grave ware near other, and they dare not trust a disoblidged prince. Then Mr. West, a lawyer, Mr. Sheepheard, the vintner, came in, with many others, and boor witnesse to the reality of this plot. The Lord Gray was apprehended, and while on Serjeant Deerham carried him in coatch to the Tower, Deerham, wearied, falling fast asleep, Gray made his escape, and fled with his concubine to Holland; Deerham was theirupon thrust into the dungeon. Monmouth also fled. The King's warrand to search Monmouth's house excepted his Dutchesse's bed-chamber, so he might be hid ther. Some alledge, he had a discourse on the plot with the King, and had his allowance; however, he wrote a letter back to the King abominating the plot, and protesting his innocence; but the yaught and Captain who transported him to Holland ware both seized on. The Lord Russell was found hiding himselfe behind a chimley portrait, in a void place above the chimley, and by thrusting a fword throw it accidentally, was discovered. Captain Walcot, John Rouse, and Hone, 3 of the conspirators, was hanged at Tyburne, the 20 of Jully; and the Lord Russell was headed the nixt day at Lincoln's Inn feilds. (Vide supra, p. 25, anent Rouse.) See ther tryall, with the probation led against them, and ther confessions and speaches, and animadversions on Russell's speach;—our Doctor Burnet having been quaeftioned as the author and penner of it, to move fedition, and doubtings in the spirits of the peeple if this plot was a sham or reall.

The Earle of Effex was affirmed feloniously (as *felo de sé*) to have cutt his oun throat, while he was prisoner in the Tower, to preferv his eftate to his son, and to shun the ignominious conviction of a traitor. Yet others thought it very hard to believe such a cowardly villany of such a gallant man, and feimed to find inconfiſtences in the P. 53. narrative of his servant Paul Bomeny, and the 2 chirurgians; and thought

the naturall averstion and reluctancy could not have suffered any to have cut ther throat as his was, viz. from the jugular to the other, throw the windpipe, till the razor almost stuck on the vertebræ, the back bones of the neck, which could scarce be done without help. This Essex was a very gallant man, and the son of the Lord Capell, who suffered death for the King in 1648; yea our King trusted this Essex with the Governement of Ireland, as Deputy, 3 years, and put him in many other places of trust. His Lady has raised an action of Scandalum Magnatum against Bomeny and the Chirurgians witnessies, to prove that his throat was cut by others; and that, in defence of his throat, he had put up his hands, and they had mangled and cut them. (See a note alibi of Fergusson's book, vindicating Essex from this crime by laying it on others.)

In Februar 1684, Laurence Braddon and Hew Speak wes proceſſt and tryed for tampering with witnessies to depone that Essex' throat was cut by others; and also Sir Samuel Barnardiston, for reviling and vilifieng the Protestant plot, and the King's evidences as if it ware a forgerie by his letters; but Captain Blaque was absolved from the accusation against him of a designe to feize on the Tower of London. (See this at more length in the 4<sup>to</sup>. MS. marked A 3, page 100, item pag. ultima.)

Some judged it ridiculous and incredible, that men who ware using all means to deprive the Duke of York of the croun, would ever open a fair door to his succession by killing the King; but thoſſe who designed his death ware certainly for a Commonwealth, and nather for ſetting up on Duke nor another, for ſome had named the Duke of Buckingham as a fit person to ſucceed. All the guilt that can be charged on Russell, if we beleieve his oune ſpeach, was, that he had the misfortune to be present in company wher Shaftſbury, and ſome hot headed men treafonably proposed the feizing on the King's guards; and tho he and Monmouth abſolutely diſapproved of it, yet they ware guilty of miſprision of treason in concealing and not revealing it, which revealing, Russell fayes, would have

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been a meanness in him, especially seeing he had dissuaded (prevailed with) them from executing thesse defignes. But with us, that concealment is treason and death ; tho, it was alledged, it was not capitall by the English law, yet the printed Animadverter on his speach seims to give 2 instances in the contrary, and farder charges Russell with perjury, who, as a member of the House of Commons, had oft taken the oath to detect any conspiracy against the King and the State, and yet he had keipt up this till it was proven on him. The Earle of Bedford, his old father, offered the King £100,000 sterlinc to spare his sones life, but York would have him to fall a sacrifice to appease Stafford the popish lord's ghost, and to expiate for his bringing up the bill of seclusion to the Lords house against him.

The great part of Bedford's estate was the lands of the dissolved Abbacy of Tavestocke, gifted them by King Henrie the 8<sup>th</sup> in 1542. So Russell had some interest to oppose Popery.

We in Scotland ware not behind in emitting proclamations to apprehend Monmouth, Gray, Armstrong, Fergusson the Scots minister, and other conspirators, and to put a price on them. And it was deponed (affirmed) in England, that Sir Hew Campbell of Cesnock elder and younger, Bailzie of Jerefwood, the Lord Melvill, Sir John Cochrane, Major Alexander Munro, late clerk, the late Earle of Argile, and others Scots, ware upon the knowledge of this conspiracy, and that on Aaron Smith was sent to Scotland, under the pretence of Carolina plantation, to negotiate the plot ; only it was doubted, if the sentence of forfaulter of ane English judge could confiscat ther lands lying in Scotland, ane independent nation ; and it was thought, tho' they might execut them to death ther, and so ther moveable escheat would follow their person, and the *locus delicti commissi*, the King being æqually King of both, yet ther sentences *quoad* lands situat in Scotland would be *ultra vires, et extra territorium jus dicere*, unless the King personally assumed the judicative power, and sentenced them ; wheirupon it was desired, they might be transmitted with 2 pregnant evidences

(which would be no great expence to Scotland) to be tryed heir. *Quæritur*, If a Scotsman tryed in England gets a *medietatem linguae* as a stranger alien, or by the law of *posinati*, he be repute a denizen?

Many addressees came thronging in to the King, from various places, congratulating his preservation from this hellish plot. But that *Censura* and decree by the congregation of the University of Oxford was the most remarkable, wheir they condemn 27 positions they had extracted out of Knox, Buchanan, Naphtali, Jus Populi Vindicatum, Hobs, &c. against governement, and that if princes malaverse, the peopple may depose them, and can put by the nearest lineall air, and set up on remoter; and ordained thesse books to be brunt as feditious, in the court of ther Theater. (See the many papers that ware published on the occasion of P. 54. this plot besyde me, in my 31 bundle marked with that figure.) Some made a parallell betuixt this plot and the late Popish on, and thought this was more convincingly made out by the confessions of the parties condemned, (tho' they said they ware trepaned and betrayed by Rumsay and others, who ware alwayes more forward in the plot then they, and who infstigated them to it, and yet went first and discovered it, and got ther oun life by turning witneses and evidences against them; and they infinuated as much as if they might have been only hounden out by some, (which was Cromwell's ordinar trick) to decoy, intrap, and infnare them, by proposing the treacherous overtures first, and then seeing who would join with them;) but as for the 17 who ware execute for Titus Oats's plot, never on of them at ther death acknowledged it, tho' we say the Popish principles bound them up from that ingenuity; and that the substance of this conspiracy is ten tymes more clearly and undenyablie made appear then the other was by Coleman's letter or Edmundberry Godfrey's death, at which some laugh now, as Shaftesburie's fables malitiously contrived by him: but this ware to cast a refle&tion on the publick justice of the English nation, whosse representatives, viz. the King, House of Peers, and Lower House,

did all declare they ware fullie satiffyed as to the exisitence of the said Popish plot. Some wondered, how Oats came not to be named on this new plot. But others answered, tho' they had made use of him as a tool, yet they knew him to be so profligat that they durst not trust him with ther secrets. When the Duke of York was persuading the King to ride with a stronger guard for fear of being assaulted, he took him short thus, "James, is ther any in England who will kill me to make you King?" yet he was induced to suffer all the keyes and locks of his chambers at Whythall to be changed, and that none should have acces thither but persons of knownen loyalty; and 100 gentlemen of great estates offered themselves voluntarily to be his additionall guard. Their is a report spred throw Brittain as if the deceast George Monck, Duke of Albemarle (who brought home his Majesty) had, about 1669, a dream, that Whythall was all on fyre, and the King in the midst of the flames, and that in a fear he came and found the King in the Quean's chapel at Masse or popish service, about 12 o'clock at night; which I hope was false. Many of the conspirators upon the detection fled to Holland; but the King, among the articles of peace with the Holanders, (which they never yeelded before) they condescended to this, that they would deliver up to him any of his subje&cts in their dominions he should require from them; but the States generously gave them fair advertisement to remove in tyme out of their territories. (See more of this plot, infra, page 57.)

If a man consider the tract of this conspiracy, with the King's oun declaration against it, and the antidote against the poison of my Lord Russell's speach, (which looks like Roger L'Estrange's pen,) it is very evident, that their has been two plots carrieng on in England at the same tyme, the on not being upon the secret or forknowledge of the other:—the one was by Walcot, Hone, and other mean 5<sup>t</sup> Monarchie republicans, to murder the King and the Duke, and set up a Commonwealth; the other by the great nobles, &c. to posseſſe themselves of the King, and move him

to disinherit his brother, and to follow ther counsels, but noways to kill the King ; and they mistake things who mingle the 2 plots togither as both carried on by the same persons. This minds me of Venner, the cooper, and them other 5<sup>t</sup> Monarchy men, who made a desperat rebellion, in 1661, and dyed on the place. (See Baker's Chronicle in fine.)

The Bishop of Durham being dead, the Bishop of Rotchester was translated thither, and Doctor Turner (who was in Scotland with the Duke of P. 55. York, and whom I heard preach their,) was made Bishop of Rotchester : So the Duke's recommendation puts in whom he pleases.

Elcana Setle (who had been the great Whig poet, with Tom Shadwell, for the Shaftesbury discontented party, and answered Dryden's Absolon and Achitophell,) turned, a litle before this plot was discovered, his cloak on the other shoulde, and printed a narrative to the disparagement and vilifieing of Titus Oats's plot ; (which see alibi.)

The Duke of York was extreemly pleased with the tyming of the Scots Circuit court in June and Julie ; for Providence had so ordered it, that the insurre~~ction~~ in Scotland and England was designed much to have been about the same tyme ; but this Circuit frighted the conspirators from their ounе houſes and lands, which, eventually, by meer accident, broke their squares and measures, as he thought, and incapacitated them from rising. Tho they could not directly reach D. G. Burnet, yet the Bishop of London took upon him to suspend and exauthorat him from his being le~~t~~urer at St. Clements, wher he preached to the keipers of the Rolls ; and he, finding it safet to withdraw, did obtain liberty from his Majesty to goe abroad, so he hys laid asyde his clericall habit, and put on gray cloaths.

It's reported, that a servant of Sheephard the vintner, on of the wit-  
neſſes who deponeſ, in this plot, did drefſe himſelfe up in the habit of a  
ſpirit, and appeared to the centinells, telling, he was the Lord Ruffell's  
ghost, and was come to informe the world that the ſpeach printed in his  
name, was but put in his hands when he came to the ſcaffold, and that

he was abused in it ;—thus thinking to impose on the beleiff of men, if he had disappeared undiscovered, but some of the guards seized on this spirit, and finding it a cheat, beat him soundly.

In the end of July, dyed the Queen of France, of a pestilentiall botch ; and within ane moneth theirafter, dyed the great Monsieur Colbert, a Scotsman by descent) who had been long superintendant of his finances ; but immediately on his death he is so far buried in oblivion, that his sone Blaniville is turned of by the King, who gives it Louvoi, he paying 50,000 crouns to Blaniville. The French King also, hearing that an English mathematician and astrologer, called John Holwell, had printed a book called “Catastrophe Mundi,” with sundry hieroglyphicall figures of moles, lyons, dragons, wolfs, crouns, miters, dead men in coffins, fyres, fights, ships, &c. wheirin he had prophecied woes to fall on Gemini, by which he means London, &c. ; but what offended him was, that he had foretold severall unlucky things that ware to befall the French King in 1683, and theirafter, if he should outlive that year. Upon which application<sup>(1)</sup> he was imprisoned long. (See a litle abridgement of his dreams besyde me in print.) Some say, thir prophets are like him who fortold Paris should be brunt such a tyme, and on the day was found setting fyre to that city, that he might not be a false prophet ; so they, to hinder ther predictions from falling to the ground, doe use means to compas them, and would after throw the blame of it on others ; the Papists and Protestants mutually charging on another with plottings. They say, the hieroglyphicks are as old as Nostradramus, 120 years fince, and ware reprinted by old Lillie the prognosticator in 1651, wheirof copies can be shownen fince that tyme.

The 9<sup>t</sup> of September 1683, was appointed a thanksgiving (being a Sabbath day, to oblige all to come to sermon,) for discovering this phantasticall plot :—a fast was enjoyned on the detection of Oats his Popish plot.

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<sup>(1)</sup> Some words are evidently omitted in the former sentence, in regard to this complaint or application, which was the occasion of Holwell's imprisonment.

In the beginning of September 1683, on Mr. John Dick, a Carguillian, was apprehended; and owing all these pernicious principles against the King, he was sentenced to be hanged; but for his father, David Dick's sake, they gave him the longer tyme to prepare himselfe. See it in my law MS. 3<sup>rd</sup> September 1683, p. , wher you'll find, he and others broke prison and escaped; but was afterwards retaken and execute.

Their is ane act of Privy Counsell made at this tyme in England, anent P. 56. the Letter Post Office, in favors of his Royall Hynesse, to whom the profit of it belongs; that heirafter no letter be carried but by the post, and if any be sent by carriers or private persons, that they be unsealed:—this is *primo*, done to augment the revenues of the Post Office; *2<sup>do</sup>*, to prevent false and feditious news.

I saw this summer a litle printed pamphlet, dedicat to the King, teaching the art of straining, boiling, and sueiting salt waters, very useful for ships in ther long woyages at sea: it is invented by Mr. Boyll and others.

In September 1683, came doun his Majesties letter recommending George Drummond to be Provest of Edinburgh, against Rocheid's party, who ware under proces of count and reckoning. (See this at large alibi.)

On the 2<sup>d</sup> of September 1683, was Vienna releived, which was invested by the Turkish Army. It had been 2 moneths and more closely besieged by Cara Mustapha Bassa, the grand Vifier, (whosse father and himself have been both eminent favorits of the Grand Seignieur, which is not usual,) with ane army of 150,000 Turks, by the space of 2 moneths and more; wheirin they had sprung many mines, bombs, and granards, and once mastered the Scottish port, (so called from a monastery there founded by Scotsmen, and wheirof the foundation required Scotsmen to be abbots,) standing near the river Vien, which falls into the great river of Danube, and from it the city gets its denomination, (it was of old called Fabian;) but the Count Starenberg, a Suede, defended it with great courage and manhood, till the very last extremity of famine, the bloody flux, and dimi-

nution of their garrison. At last the Chriftian army, commanded by the Duke of Lorrain as generall, the King of Poland, and Prince James Sobietkzi, his eldeſt ſone, a boy of 15 years old, and by the Dukes Elec-tors of Bavaria and Saxony, did affault the Ottoman forces and defeated them, taking 120 canon, ther rich tents, and ſundry horſe-tailes on poſts, which are the Turkish standards; and the Polish Huffars, whoffe horſes are armed as well as themſelves, killed many of the Turkish Janizaries and got a conſiderable viſtory over them, killing ther infantry and putting ther cavalry to flight.

Thanks ware given by the Emperor and others, in the cathedral church of St. Stevin of Vienna, to God, and the *Te Deum Laudamus* fung, and the Turkish captives put to repair the breaches made in the walls. The ſpoill taken was very rich, and yet got with ſmall loſſe to the Chriftians, by the great proviſe of God, ther not being above 1000 of them killed, and few of them of note, except our countryman young Count Lesly, and the Duke of Croye's brother. It was obſerved, in favors of Count Tekely the Hungarian, who, with the French King, had invited the Turk in to this invasion, that he keepeſt himſelf as free of giving the Emperor any new provocation, and did not join or affiſt the Turks at this battell; ſo that it's hoped by ſome, that the King of Pole and others may intercede to make his peace with the Emperor of Germany, by obtaining to him and his party the free exercife of the Protestant religion, the denying wheirof and baniſhing ther ministers to the galleyes, and uſing other cruelties by the Emperor, who is abſolutely preiſt ridden by the ſanguinary Jeſuits, did dryve them to ſhelter themſelves under the great Turk, who, for 30 pence a year, gave them the free exercife of ther religion. It's thought, the Grand Vizier may get a bowſtrin for the reward of his bad ſucceſs, according to ther cuſtome; however, he began with Ibrahim Baffa, Vizier of Buda, and ſtrangled him, for his firſt running away cowardly the day of the fight. Jablonouſky, Palatin of Ruſſia, and Great Marifhall of

Pole, distinguisched himselfe signally by his valour in this battell. (See the P. 57. 3 fundry printed relations of this victory besyde me.) This is the 2<sup>nd</sup> tyme the Turk hes attempted Vienna, without succes: the first was, in the reign of Charles the 5<sup>th</sup> Emperor of Germany, in 1529, when the brave Sultan Solyman the Magnificent, came against with 300,000 men, and was forced to goe home *re infecta* and break his heart for greiff. (See it in the historians of thesse tymes, and particularly in Sebastiani Munsteri Cosmographia, in his description of Germany, page 315 and 970, and in D'Avitie's World, cap. de l'Allemaigne, p. 883, and others.)

The Vizier retired with his army in great method and order, and the King of Pole, knowing the usuall advantages the Turks get of the Chriftians is commonly when they prosecut ther victories too far, and so being of all guard, the Turks rally again and so defaits them, he resolved to stand to his posture and to follow them but leasurly; and the breaking this his oun rule, had almost cost him and his litle son Prince Alexander, a boy only of 15 years of age, (who would signalize himselfe by being in this glorious action,) ther lives, had not the Duke of Lorrain come up in tyme to ther rescue. However, they cut of many of the Turks rear, and defait Count Tekely and Michael Abaffi, Prince of Transfilvania, (see his declaration of war, in French and English, besyde me printed,) and 2000 of his forces, and drove him to the mountainous tounes. Then the King of Pole took Grana, (a toun which hes been 78 years in the Turks posseffion,) and Zetchin, and fundry other places, by surrendrie; and besidged and blocked up Newhauffell, Belgrade, (the old Strigonium,) and Buda, the capital and metropolis of Pannonia or Hungarie, hoping they will fall in ther hands the nixt Campagne. But the Grand Seignieur received his Vifier graciously, and threatens to return in the spring in person on the head of 300,000 men, and sow Vienna with salt. On this confternation the Turks ware in, many of the Greek slaves in Moldavia, Valachia, &c. revolted from the Turks, and fell in upon his countries, and carried away much spoill. (Vide infra pag. 62 & 64.)

Our Scots Parliament, by mistake, forgot to be prorogued at this tyme : its now done, which may leive ground to some to cavill. (See more of this alibi, in the law MS. 16 August 1683.)

Supra page et seq. we see a new plot burst furth: when the termie sat dounie in October 1683, the Judges being returned from ther circuit, Aaron Smith, (who was alledged to have been sent dounie to Scotland, to stir up our discontents to joyne with them in armes,) is brought to the bar, and in regard they wanted probation to make him on this treasonable plot, they goe back 3 or 4 years, and accuse him for seditious words he uttered at Oxford, as ane attorney for Steven Colledge, the protestant joyner, who was tried and hanged ther; and for this Aaron is set on the pillory and fyned.

On the 1 of November, the Scots prisoners, to the number of 12 or 13, ware embarqued on the Kitchen yacht and sent to Scotland ; wher, after much tempest and toffing, they arrived on the 14: ther names ware, Sir George [Hugh] Campbell of Cesnock, and his sone, Muir of Rowallan, and his sone, and Fairly of Bruntsfeild, his son-in-law, Bailzie of Jerrefwood, [Crawfurd] of Crawfurdland, Alexander Munro of Bearcrofts, Murray of Tippermuir, Mr. William Spence, late servant to Argile, Mr. John [William] Carstairs, and Hepburn, ministers. On ther arrivall they ware keiped close prisoners in the tolbuith of Edinburgh ; only some of them ware confronted with Gordon of Earleston, but no discovery could be gathered theirby.

On the 5<sup>t</sup>. of November 1683, by our Bischops and Statesmen to gratify the Duke of York, the commemoration of the Gunpowder plot was omitted. Some of the modester pretending meer forgetfulnes why nather sermon was keiped nor cannons shot, as used always to be, (tho' the magistrats did ther part in ringing ther bells and putting on some bonefyres;) others, more impudent, said ther was no a<sup>t</sup> of Parliament for observing

fince,) and that thesse providences ought not to be solemnly remembred longer then the life of the Prince who got them.

In November 1683, Algernoon Sidney, son to the Earle of Leicester, and allyed with the best of England, was brought to his tryall for his affection to the late phanatick conspiracy ; and on the testimonies of Rumsay, Keeling, Howard, &c. was found guilty. Beside the plot, he was charged with a treasonable pamphlet found in his cabinet, proving the people to be above ther Kings, and stating in them a power of deposing princes in case of ther misgovernement ;—it was proven by severalls, who had traded with him and produced his letters, that they verily beleived it was all his oun hand writ ; however, I hear this probation, *comparatione literarum*, is not concluding nor convincing by the English law, not even in civil cases, much lesse in capitall ones ; which is also Antonius Faber's opinion in his Codex Sabaudus, titulo de Probationibus, definizione 71. (See S. G. M'Keinzie's criminalls, p. 524, &c.) He spoke very learnedly for himselfe, and alledged, ther ware not 2 witnessses proving on ouvert act ; he was minded this was repelled in the Viscount Stafford's proces in 1680. Then he objected, that many of the Jury ware not freeholders ; they desired him to remember that was overruled in Russell's case lately. Then he objected the Indytment abated, and had false Latin in it, and wanted the King's title *fidei defensoris*, &c. Thir ware repelled, unlesse he would wenter his life on thir, and renunce all other defences, that the King's Attourney Generall might demurre to this plea, and be fred (according to ther custome) of leading any probation against him. When the Duke of Monmouth returned, (*de quo infra*,) he moved for a new hearing ; but he having been found guilty by the Jury before, they denied it : wheiron he was sentenced and headed at the Towerhill on the 7 December 1683, Shireff Daniel attending him. He spoke little or nothing on the scaffold, but gave a paper, and seemed very unconcerned at death, like the ancient Romans. The Whig party hoped his life should have been spared, but

tho' he was a gallant man, yet he had been so misfortunat as ever to be on the disloyall syde, and seimed to have drunk in with his milk republican principles, and was a Collonell against King Charles the 1<sup>st</sup>, and continued a sworn ennemy to monarchy, which justifid the taking of his life very much: see his Speach.

On the 24 November 1683, to the great surprize of all the English Court and the Ile of Brittain, the Duke of Monmouth came in, and put himselfe on the King his father's mercie, and confessed his faults; and so was graciously receaved, and got a pardon and remission. The summons of treason against Monmouth, Lord Melvill, Stairs, &c. was newly sent away to London, by our statmen, to get them forfaulted heir, when this reverse of fortune met it in the teeth. The widow of Tekoa, who brought home our Absolon, was thought to be the King's French concubine, the Dutchesse of Portsmouth, formerly Madamoiffelle de Carowelle. The Duke of York, finding her under pension of his contrare party, and that by hir they got acceesse to the King, he takes occasion, upon her absence in France this summer, to suggeest to the King that shee was dishonest with the Bishop of Paris, and Monsieur le grand Prieur de France. On her returne, finding the King somewhat alienat from hir, but, soон making her peace again, and confidering none in England durst play her that trick but the Duke of York, and feeling the King's inclinations to restore and pardon his Sones simplicity in being misled, and to secure him from the hazard of his life, shee joyns with the Marquis of Hallifax and Earle of Mecklesfeild, (who insinuat to the King that his brother was more courted and attended than himselfe,) and they prevail with the King to allow Monmouth to return to his prefence. Upon which, immediately all thesse who ware in prisone for this late plot, as Trenchard, Hampden, are all set at liberty upon bayll; which did so blow up the Whig party with hopes, that they began to insult, which partly necessitated the Court to take Sidnie's head, (least, by sparing him, all men would

have concluded, it had been only a sham plot,) and gave occasion to the Duke of York and his party to desire the King to require the Duke of Monmouth to publish and print a declaration, or manifesto under his hand, of his knowledge of the circumstances of that late plot, as he had confessed it before the King and his Secretaries at his first incoming. Monmouth, finding this was but a trap and snare digged for him by York to rise in judgement against him (notwithstanding his remission) when any thing should aill the King, he refuses; whereon his Majestie, being afraid that the countenancing his Sonne might breed new troubles, and imbolden that party, and thinking he had fully insured his life, to dash that faction, which was reviving again, he banisheth him his presence, and confines him to More park and 5 miles about it. I heard some alledge, that the Duke of Monmouth's coming downe as Generall, in 1679, against our rebels at Bothuel-bridge, was ane artifice and stratagem of York's to draw him under the *premunire* of ane English act of Parliament, made in 1643, and yet standing unrepealed, declaring it hy treason to invade the Kingdome of Scotland without the authority of the Parliament of England, and to shun which Monmouth then took a remission; and that the seeking him to give this manifesto was a new trap laid for him, for if Monmouth would give 1000 renunciations, York will never think himselfe secure till headles, and to accept of a renunciation ware no wisdome, that being a tacit acknowledgement of some right, and the renunciation might be afterwards quarrelled, as given *per vim et metum*, even as his remission may be quibbled on as the deed of ane indulgent father, who could not wrong the *vindicta publica*, if he ware once dead. Our Whigs ware come to that heighth, that they ware speaking of no lesse then the reschinding the Duke of York's Parliament as null, because it was held by a Papist, who, by our acts of Parliament, are incapable of any office or trust, and much more of that hyest employment; but ther hopes ware very short lived, and we may say of Monmouth's favor, as Tacitus of Galba's reigne, *precarium et brevi transiit*

*imperium*; and we know not which of thir 2 factions, strugling in the womb of our state, shall prevall. Yet it's alledged, the Duke of Monmouth, by the remission, being reintegrat and made a free subiect, the King cannot banish or confine him by the English law, but it must be upon the sentence of a judge, after convicting him for some crime. The letter the Duke of York would have had Monmouth signing craves pardon for acceffion to conspiracy, but denyes any designe of killing the King, or knowledge of it; so the conspiracy seims only to have been the prosecuting or too hasty anticipating of the association against the Duke of York or Popish successors. Monmouth retired over to Holland after this.

In September 1683, dyed Mr. Alexander Young, Bishop of Roffe, at Paris, a few days after he was cut of the stone: a moderat and learned man, unjustly supplanted in the Bishoprick of Edinburgh by his successor, and therfor attempts ware made of sending him back *lege talionis* to Roffe. At last, Roffe was given to Mr. James Ramsay, Bisshop of Dumblain, in Jully 1684, and Douglas, Bisshop of Brechin, was translated to Dumblaine, and Mr. Cairnecrosse, minister of Dumfreis, is made Bisshop of Brichin. (See him advanced to Glasgow, *infra* page 71.)

In Otober 1683, the French King, who had his army ready to have fallen in on Germany, to depose the Emperor, if the Turks had gained Vienna, being disappointed, he made a feint in upon Flanders, and under the pretence the Spainards had tane a village of his, he feized upon the toune of Courtray, a very disproportionat reprisalls; and though ther was no war declared, yet committed many acts of hostility, only forboor burning, and treated the Spanish prisoners as robbers, not as captives of war; so that the Spaniard, in December, declared war, rather then ly at such uncertainty. (Vide *supra* page 56.)

In November 1683, ther came a warrand from his Majesty to torture Earleston, but he falling apparently mad it was forborn. Then 3 fellows for disouning the King's authority, ware hanged at Edinburgh. (See thir

at large alibi, in my law manuscripts.) Item, the Commission from the King to 7 of his Ministers of State, to manadge all, and prepare things P. 60. for the Counsell, and give him ane account of affairs, like the junto of the Octavians. This increased the animosities and mistakes between our Chancellor and Treasurer. (See it alibi.) A great attempt was made with the King, in September laft, to get the Chancelor put off. See the accusation charged on him by the caballe, in another paper besyde me, alibi.

On the 3rd December 1683, some phanaticks at Glasgow make the attempt to kill Major Balfour and some of the officers of the army lying ther. They are apprehended, and wildlie condemne all other churches, even the Scots on of fugitives at Rotterdam, as not pure eneugh. The Privy Counsell sends a commission to 4, at Glasgow, to judge them their; viz. the Lord Ros, Lieutenant Collonell Winrahame, &c.

Collonel Leg, now created Lord Dartmouth, being sent away some moneths ago, by the King, with 16 ships, none then knowing his earand, he came to Tangier, and signified the King's pleasure to the garrison and burgers that both the forts, mole, and city, should be deserted, razed, and demolished; and they, ther families, and goods, he was to transport to England;—And that because it was expensive to the King, and the Parliament in 1680, when he was seiking money to maintain it, they advised him to flight it as useles, (which they did to render him odious); and tho' London offered to the King to defray the charge of it, for securing ther Levant trade in the Straits, yet it was judged unfit to put it in ther hands, they being too rich, proud, and powerfull already, and deserved rather to be humbled and chastised. The French or the Mores will seize upon it, as left *pro derelicto*, and so *primi occupantis*, and will infest that coast. They speak of getting from the Spaniards a more commodious port on the other fide of Gibraltar, but the English have not got it yet.—Thus ended Tangier, *urbs Tingitana*, the tocher and doury of our Queen

Catharen, whosse brother, Dom Alphonso, King of Portugall dyed in September 1683, and Dom Piedro, his [brother,] succeided to the croun. Many wished his sister Catharen, *ob sterilitatem*, had filled his grave. Many wondered at the politique of deserting Tangier, but *concilia principum sunt mysteria populorum*; and the Moors are feising on the ground, and fortifying it, and will be troublsone to the English ships their, and refuse them fresch water.

In the end of this same year, dyed the Quean of Portugall, and the Duke of Venise, who had been Dogi 8 years; and in his place was elected by the Senate seignieur Paulo Manco Antonio Justiniano, who in great solemnity, in ther Bucentoro, marries the Sea with a ring.

In November, we heard that Brandenburg, Saxony, Lunenberg, and severall of the Protestant Princes of Germany, ware entring unto ane affociation and confederacy for the defence of the reformed religion, fearing the Emperor, Pope, &c. inclined to extirpate it; and they ware to invite Holland, Sueden, and Denmark, unto the Bond of Union.

The rest of the States of Holland having passed a vote for raifing 16,000 men to defend the Spanish Netherlands, and the Deputies of Amfterdam refusing to consent, in pique and jealousie of the Prince of Orange, much pains was tane to bring them over; and they ware threatned, if they continue obftinat, the rest would proceed without them, which they say would be a violation of the fundamentall constitution and establishment of that Commonwealth, each of them, in leavieing of men and money, having a negative, and especially Amfterdam, which was richer then the half of them; and they should not have ane equall vote and share in the governement with thosse that contribut much more than they can doe to the war, seing they who have *majus fundamentum in re*, should have also the greatest interest in the governement, according to the rule of aequity in all societies and copairtenaries: and in such cases, the plurality of votes could not bind the rest dissenting; therfor, the tax and levie was only

made effeiring to the proportions of the consenters, and no farder. At laist, on the Spaniards declaring war, Amfterdam consented to the levy, at leift to a recruit.

Theſſe of Amfterdam are of the Louvſtein or De Witte's faction, and are afraid of the Princes' usurpation, and would rather submit themſelves to the French King's protection; and pretended that 16,000 additional men was not a competent and ſufficient ftrength againſt him, but required more.

Some ſpoke of agrieing France and Spain by ane excambion of the Spanish Netherlands, and France to give them in exchange Catalonia and ſome part of Navarre, about the Pyrinean hills. (Vide *infra*, page 65.)

There was, in November 1683, great ſtorms and ſhipwracks on the coaſt of Holland and Norroway; and 1500 dead bodies ware caſt furth at the Texel, beſyde Amfterdam, and ther ware many ſhips broken and drowned. And in the end of November, ther began with us a great froſt, which continued till the end of Februar 1684, and longer, for three moneths and a halfe, with ſome ſtormes and ſnow now and then; ſo that the rivers at Dundee, Borrowſtounneſſe, and other places wheir the ſea ebbſ and flows, did freeze, which hath not been obſerved in the memory of any man before; and theirby the cattell, eſpecially the ſheip, ware reduced to great want of meat, that the like had not been fince the winter 1674. The River of Thames was frozen, and fairs, mercats, and bulbaitings held thereon.

About this tyme, ther was a report that the Grand Seignieur, at the requeſt of 12 of his Baſſas, had ſtrangled Achmet, the Grand Vifier, and ſet up Puteoli the Vifier's brother, to be his minister of ſtate in his roume;— but this was not confirmed till Februar 1684, which boor, that the Aga of the Janizaries executed it at Buda.

In this moneth of December 1683, broke furth a ſcandal againſt Mr. John Macquean, on of the minifters of Edinburgh, of unmodeſt and undecent carriage towards Miftris Euphame Scot, with whom he was befot-

tedly in love, and shee despised him ; and he, by a trepane, obtained hir petticoat, and made it in a wastcoat and drawers. He was suspended for thir fooleries ; but in the beginning of Februar 1684, the Bisshop reponed him again to his Church.

On the 26 of December 1683, Mr. William Home, brother to the Earle of Home, at the castle of Hirsell, in the Merse, did proditoriously murder Joseph Johnston of Hilton, and wound Home of Nyewalls. It was reported, that Hilton (who was of a haughty quarrelsome temper), besydes opprobrious words he had used to Mr. William, he gave him also a box on the face : however, he came and stabbed him as he was going to his bed. It was that same day 12 moneth, that Alexander Home was hanged, whom the said Mr. William had apprehended, as on of the Shireffs of the Merse. He fled to England on Hilton's horse.

## ANNUS 1684.

THIS yeir began with the report of a Parliament to be called in England, in regard the 3 years was near expiring since the last at Oxford, within which space the King had formerly ingadged himselfe to call a Parliament, viz. once every 3 years; but the Duke of York, did not find it convenient that it should meit.

In the beginning of Januar 1684, dyed the Lord Peters in the Tower of London, being on of the 4 popish Lords who ware imprisoned in the end of 1678, on the breaking furth of Oats's plot, and who have ever lyne ther fince. A printed declaration came furth immediately as done by him, and directed to the King, attesting his innocency of that plot, &c.; but many thought it was penned by some papist after his death.

At this same tyme, dyed Henry Jermyns, Earl of St. Albans, who had been the Quean Mother's servant and favorite. He having no ishue, the King presently created on of his naturall sons, by [Mrs. Gwynne,] Duke of St. Albans.

About this same tyme, dyed Howard Duke of Norfolk, father in law to our Marquis of Huntly. He was a great support to the popish interest, nixt to ; and that family ever since the Reformation have been so inclined. Yet his sone, who is now Duke, being sequestrat young, and educat by the bischops, is a good protestant, which is a considerable providence to our reformed religion; but such is the restles subtily of popish malice, that they give out this Duke is a bastard, and incapable to succeid, his father when Earle of Arundell not being

lawfully married to his mother; his 2<sup>d</sup> lady, or rather concubine, was on Beffie Biccarton, a Scotswoman. Death entring at this new year on the English nobility, did also sweip away with his feeth the Lord Montague of Boughton, in [Northampton-shire.]

P. 62. On the 24 of Januar 1684, the Earl of Perth is sent post by our juncto and our Privie Counsell to the King. See conjectures of his embassie in my law MS. at that day, page . He met with stormy weather of snow and frost; and came back again, in March, *re infecta*.

18 Januarij 1684. The Lords of Seffion, by ther a<sup>c</sup>t of Sederunt, ratify and confirme the a<sup>c</sup>t of the Faculty of the Advocats, imposing 500 merks on the advocats entring by examination, and 1000 merks on them who come in *per saltum*. (See it alibi in my Seffion MS. in 8vo., page 86, and the place ther cited.)

In this same moneth, the King makes a call of 16 serjeants at law, all choisen out of the ablest barristers; who ware sworn and receaved with great solemnity (ther not having been such a number pitched on for some tyme) in ther robes, and each of them gifted with a ring containing this emphatick motto, *A Deo Rex, a Rege Lex*, denying the peopple a share athir in establisshing kings or laws.

In the terme that sat in the beginning of Februar 1684, at London, the Earle of Denby, late treasurer of England, and the Lords Powis, Arundell, Bellafis, and Tirowen, which 4 ware imprisioned in the Tower of London, on the account of Titus Oats's discovery of the Popish Plot in 1678, are, by Sir George Jeffries, Lord Cheiff Justice, (the other Judges, as Wallop, &c. dissenting, at leist demurring,) set at liberty upon bayle, to appear at the nixt Parliament that shall fit. They had attempted oft before on a Habeas Corpus to have been freed; but it was alwayes refused them by the former Cheiff Justices, viz. Scrogs, Pemberton, and Saunders, on this ground of law, that being imprisioned by authority of Parliament, none else could liberat them but they; however, Jefferies did, and it

took his hazard of the Parliament. The caution each of them found ware of the greatest men in England, almost all Earles. The King creates Danby Marquis of Carnarvan, tho' the Parliament's impeachment of him for treason yet depends; but the King had given him a remission, which they controverted, because before conviction:—but this patent was afterwards stopt.

At the same tyme, Mr. Hampden, one of the conspirators in the late plot, and of the counsell of fix, (as was given out, vide supra page 52,) is tryed for hy treason. But finding they could only prove it againts him by on witnesse, viz. the Lord Howard of Escrick, in regard the Duke of Monmouth, the other witnesse, disobeyed the subpænas served againts him to appear, and withdrew; therfor, they only infisted againts him upon hy misdemeanors, such as his reflecting on the Governement as inclining to Poperie, &c.; and fyned him for thesse in £40,000 sterling, and bound him to his good behaviour during his lifetyme;—so some people concluded from this, that the phanatick plot was decaying when so eminent a man as Hampden escaped with his life for want of probation.

Eodem tempore, the Cossacks and Tartars give the Turk a great defeat, so that all Walachia, Moldavia, revolt from the Turkish slavery to the Emperor of Germany, and kill 30,000 Turks. Egypt and some places in Afia, revolt from him lykewayes. (Vide supra pag. 56.)

In Februar 1684, the Deputies of Amfterdam protesting againts the rest of the States Generall, for imposing a leavy by plurality without ther consent. (Vide supra p. 60.) And the Prince of Orange having raised a summons of treason againts Van Benningham, ther representative, for corresponding with the French; and he fearing his head, did, at 3 a cloak in the morning, flee out of the Hague to Amfterdam.

22 Februarij 1684, Colinton is infalled Justice Clerk in place of my P. 63. Lord Maitland. Item, 3 men hanged for disouning the King's authority. (See both thir at large in my Session MSS. alibi.) And Mr. John Dick,

formerly sentenced for thesse dangerous principles, and who had fled, is apprehended and hanged.

In March 1684, the King ishues out a Quo Warranto against 14 of the Companies of London, as having lost ther charters, viz. Mercers, Groffers, Taylors, &c. The Goldsmiths and Vinteners ware the first tuo who came in and delivered up their charter of erection and priviledges to his Majesty.

At the same tyme, 3 suns are seen in the morning by many in the town of Dale, in England, and 3 rainbows like cressents and halfe moons, to the great wonder and astonishment of the beholders, none of them having ever seen the like before.—In Scotland in the south, it was reported, that graves ware found cut out of the wholle earth, of the usual breidht and deepnesse, and the wholle lump laid intere besyde it, as if it had been cut out with a knife ; this prodigy was called the ominous forerunner of some pestilence or great mortality.

The storme being broken which had destroyed many bridges, milnes, and coall finks, up and doun the country, to a great value ; many fisches ware casten furth upon the shoar and sands dead, by the rigidity of the winter, which certainly ware very unwholesome food, tho' they ware sold amongst other fisches.

24 Martij, et diebus sequentibus, was the criminall tryall of Sir Hew Campbell of Cesnock, for treason, who was clenged for laik of probation. See this strange affair at large in my folio law MS., marked , at thesse dayes, page .

In March 1684, dyes Lieutenant-generall John Lambert, ane active man, nixt to Oliver Cromwell, in the late troubles, and imprisoned in the Tower in 1678, upon the discovery of Oats's Plot, as a papist in mascarade ; and not only keeped alive on the King's restitucion, but even escaped the hands of justice fince, upon some secret politique of state.

In April 1684, Sir Lionel Jenkins, on of the Secretaries of England, begged of his Majesty, in regard of his age and infirmities, to accept a di-

miffion and retirement of his hand ; which the King did grant, and put Sidney Godolphin in his place.

About this tyme, dyed the Lord Halkerton, Lord Semple, and Ladie Napeir. And the Earle of Wigton's house of Cummernauld, and a great part of the toun of Kelso, by accidentall fyres, ware brunt doun and consumed ; and this winter, ther ware 2 fyres broke out in Edenbrugh, and on at the West Port theirof ; as also, Sir John Cochrane's house of Ochiltrey was brunt, by the negligence of on that was making confectionis to his Lady in it :—The servants shoulde by a law or acts of counsell, be examplarily and publickly stigmatized by whipping, &c., that others may learn to be more carefull. In some places the masters in whosse houses the fyre begins are made lyable to refound the dammages sustained by the neihbours, whither heritors or inhabitants, so far as they are able to make up the losse. (See Lublerus, *Tractat. de Incendio*, Vinnij *Selectae Quæstiones*, lib. cap. and Gayl, lib. *Observationum*, cap. ). About this tyme also, the Castle of Dublin in Ireland was brunt doun.

In the same moneth of April 1684, we had ane account from Vien- P. 64. na, that the Grand Seigneur Mahomet, 4<sup>th</sup> Emperor of the Turks, was strangled and put to death, in a sedition and tumult raised among his people, at Constantinople, by the Janizaries and thoffe who favored the lait Grand Vizier, whom he had caused head ; (vide supra, pages 56, 57, & 62,) and did set up his brother, called , to be Emperor. Ther was, certainly, a great confusio[n] and confarnation in that Empire, and if Christendome would joyne unanimously with Germany and Pole, in all probability they might, with God's bleffing, humble ther pride, and chase them out of Constantinople and Europe, over the Hellefpong to Afia, wher the Cham of Tartary is like to chaftise him ; and the Sophy, or King of Persia, is raifing ane army against him, to besiege Bagdet or Babylon : for kingdomes have ther groughs and increases, and then ther diseases, mutations, and periods, tho longer lived, commonlie, than any fingle

man is.—Tho this storie of the killing the Emperor of the Turks was asserted twice in the printed Gazets, yet it was afterwards found to be but a mistake and a false report.

In the end of this moneth of Aprill, dyed at Edinburgh the Marquis of Montrose, to the regrate of all good men, and was buried at ther buriall place of Aberuthven, a chapell in Perthshire: he had much of his grandfather and father's good parts. His place as Captain of the King's guards was bestowed on the Lord Leviston, lieutenant to that troup, on this pretence, that the Duke of York had declared that he would inviolably observe that rule in all offices, but especially in military ones, that, when the Captain dyed, the Lieutenant should succeed; but some thought, that he was but trusted with it as a fidei commissary, for the use and behoof of the infant Marquis of Montrose, Leviston's brother being married on the last Montrose's fister; but this was doubted of. However, many ware disappointed and discontented who stood in competition for it, as the Tresurer, who was seiking it for his sone; the Marquis of Atholl, who had a fair claime, being once Captain, but dispossesed by the Dutcheffe of Lauderdale's caprice, because his sone refused to marry hir daughter; the Earle of Airly, whosse sufferings and loyalty pleaded a recompence; and sundry others. Mr. David Hay, Tuedale's sone, cornet of the troup, succeids Leviston as conjunct lieutenant with Mr. Murray, Spot's brother, and Captain Home of Ford (who formerly had a company of grenadiers,) is made cornet, and his place is given to

On the 6<sup>th</sup> and 8<sup>th</sup> May 1684, the Chancelor, Treasurer, and our other officers of State and juncto, parted for London to attend his Majesty at Windsor, wher he was to hear ther complaints on against another. (See in my Session folio MS. marked , of this, page .) The Treasurer had mo of the nobles to oun him, partly out of pick against a gentleman made Chancelor, and also because they are pensioners, and forced to depend on him ere they can get payment from the Exchequer. (Vide infra, page 67.)

On the 7 of May 1684, a Faft is keiped for the severity of the winter, and backwardnesse of the spring.

9<sup>th</sup> May, Captain Paton is hanged for being at Pentland-hills and Bothuel-bridge rebellion; and a woman for poisoning another. (See the foresaid manuscript.)

In Aprill laft, on James Halloway, who had been upon the English conspiracy laft summer, is hanged at Tyburne. He had fled to Barbadoes, and thence to the Ile of Mevis, and was found ther crying straw hats, and fent over to England; and confessed his accession to the plot before the King, but begged pardon, feing the King had forgiven Rumsay and other greater rogues than he. He was condemned on a former outlawry [which] had paffed against him, but, in regard it was in absence, they offered him a new tryall for his life if he desired it. (Vide infra, page 66, Armstrong's cafe.)

About this tyme, dyed Father Cerle, le Grand vicaire of the Bischoprick of Pamiers, who, with his Bischop and others, espoused the Pope's quarrell against the French King in the controverſie of the Regales: (vide supra pag. 17; and of this Pere Cerle's letters, the 4<sup>ta</sup> historick manuscript, marked , page .) On his death, the French King ordained his papers P. 65. to be ſequeſtrate and feized on, wheirby he might expiſcat what intelli- gences and correfpondencies he keiped with any within his kingdom, or others, to hold up the ſchifme.

In May and June 1684, the French King commanded his army, under the commands of the Marifchalls de Shomberg and Creqy, (himſelfe ſtaying with his Court and another army at Valenciennes, for he keips himſelfe alwayes far from all danger, as the Jews advised ther king David to doe,) to attack and beſeigde the brave city of Luxembourg, in regard the Emperor and Spaniard would not imbrace the offers of peace he made them. And after they had bombardied it ſeverall weeks, and that the Marquis de Grana, Governor of the Netherlands, and the Prince of Orange came not up in tyme to raiſe the ſeige, and the Prince of Chimay, who com-

manded the toun, finding both his victualls and ammunition turning scarce, and the men of his garrison mouldering away, he was necessitate to surrender, and so upon capitulation, to march out with bag and baggage, and colours displayed. The French got this toun and all the great dependences on it, which hastened the Hollanders in ther Assembly of the States Generall, to imbrace the overtures made to them by Monfieur D'Avaux, the French Embassador, of a truce with his master for 20 years, and to preserve the barriere tounes betuixt them and Germany, and to incroach no farder. This was carried by the French faction in Holland, contrare to the Prince of Orange's party, who protested against it, except the King of France should also restore him to his principality of Orange. (Vide supra pag. 60.) Then the French envoyes gave the Emperor and King of Spain a limited tyme betuixt and which they may come into the treaty; and in the mean tyme forboor acts of hostility. Spain was much enraged at this conduct and procedure of the Dutch. The French King and his train returned to Paris; and severall of the English nobility and gentry ware disappointed, [and went] some to the on syde, according as they affected, and some to the other, to be volunteers in this campaigne. The Duke of Monmouth offered his service to the Spaniard, got a command, and was very honorably used.

The French forces, by a surprize, did also, at this tyme, make themselves masters of the city of Treves in Germany, (a key of that country, like Cologne, and Stratsburg,) belonging to the Elector of that name. As also, his fleet and gallies in the Mediterranean, under the command of his Admiralls D'Estrées and Du Quesne, came before the city of Genoa in Italy, and craved they might submit to the protection of the crown of France, and desert the assifting of Spain; (see infra, page 74 in calce and 83;) which proud message they refusing, they brunt doun many of the palaces and churches of that pretty citie, with the fire bombs throwen in upon them; but, at laft, that republick having raised ther forces, they necessitat the French navy to retire; who in the

way heftored the Duke of Florence, requiring the liberty of his harbers and a summe of money; which he refused. Theirafter they assaulted Giroune, a sea toun in Catalonia, and the Governor craftily suffered them to enter the toun by casting open the ports, and they, not awar of the ambuscade, ware so peppered with musket shot of the Spaniards from all the parts of the streets, that many of the French left ther carcaffes their, and the rest fled in confusio to the ships: however, since [that time] they have taken some tounes and castles their. As for the French King's pretensions on Luxemburg, Treves, Genoa, Catalonia, &c., see them in Mr. D'Avitie's Hyftorie of France, and the Interest of France, and other wryters.—At laft, the Emperor and Spain finding they had no other game, they made a vertue of neceffity, and agreed to the 20 years truce; and the articles ware at laft interchanged in September 1684; and the French King refused long to evacuat and give back Courtray and Dixmuyden, on the pretence of arrears of contributions owing.

In May and June 1684, at the Trinity terme, his Royall Hynesſe the P. 66. Duke of York, was perſuaded by ſome to intent a proces againſt Titus Oats, for reviling him upon the ſtatute of Scandalum Magnatum; and Oats refuſing to appear and give in defences, probation was led againſt him. Some witneſſes deponed, he called the Duke a traitor, others, that he brunt London, and that it would not be weell with England till he ware baniſht or hanged, but hanging was the beſt of the 2 for him; and tho' he got him fynd and impriſoned, yet, whenever a parliament ſhould ſit, they would liberat. It was obſerved, never 2 witneſſes deponed as to on expreſſion, but all on ſeverall words: however, the Jury, without retiring from the bar, found him guilty, and the Judges fynded him in £100,000 sterlinc damages, for which the Duke got him impriſoned; and it was talked, they would firſt try him on perjurie, and if that ſucceſſed, then they would arraigne him on hy treason. Pamphlets at this tyme came abroad diſparadging the evidence he had given that ther was a Popiſh plot.

The Duke finding himselfe now above all hazard, he got in effect the power, if not the place of being Admirall of England again, which had been taken from him. As also, the King declared his presence was necessar in his Privy Counsell; so he was restored also to that place, wheir he had not appeared publickly thesse 6 years past; and tho their was ane English act of Parliament, that none shall bruik a place their, except he take the negative oath against Transubstantiation, which the Duke hes not done.

About this same tyme, the King of Brittain's Envoy in Holland, (Master Chudley,) being informed by Mr. John Constable, a Scotsman their, that he knew wher Sir Thomas Armstrong (who had fled out of England on the discovery, this tyme 12 moneths, of the late phanatick conspiracie,) haunted in Leyden, (in which toun Armstrong was borne, his father being a groom, and dischended of Archie Armstrong, King James's fooll, and of a Scots race in the borders, tho he fell to be in great favor with the Duke of Monmouth,) they hires some of the guard their, called the Stoupis, appointed for suppressing the unruly students, and without letting them know their designe apprehends him, and carries him in to a scot, and from that to a ship, and straight hoyfes sail for England. The States of Holland ware displeased, it being contrarie to that prote&tion they give to all strangers, and tho they had, by ane article of the laft treaty with our King, consented to deliver up to him any of his rebell subiects he should require them; yet it boor alwayes this condition, that the party be first advertished, which, in effect, was only to put them out of ther territories. However, he by this trepane was brought before Sir George Jeffries, Lord Cheiff Justice of the King's bench at London, and the former decree of outlawry red against him. He craved to be reponed, as they had done Holloway; (supra p. 64.) Answered, the King had done that *ex gratia*, wheiras they ware not the dispensers, but behooved to put the sentence to execution against him, unlesse the King ware prevailed on in his clemency to mitigat ther justice. Then he founded on the 11 statute,

5<sup>ta</sup>. and 6<sup>ta</sup>. Edward VI., wher any person that is beyond seas, being declared outlaw and fugitive for treason, &c. hath a year allowed to him to appear and purge his contumacy, and propone his defences. But Sir Thomas was alledged not to be in the circumstances of that a&t, because its only extended to them who, within a year, shall render themselves to the Cheiff Justice; *ita est*, he was taken, and did not voluntarily surrender P. 67. himself. He urged, he did now deliver himselfe up to the Justice, and the year was not yet expired; which was repelled. (Of purging contumacy within a year, see Titulos Dig. and Cod. *De requirendis reis et absentibus damnandis*, for this English statute.) The reason he got so hard measure, and the rigor of the law, was, he had been a great he&tlor of the Whig cause, and if they had loused that outlawry, they feared the probation they had against him would not be so convincing and full, and they resolved he should not escape; so he was hanged on a decreet in absence. His daughter, Mistress Mathews, cursing the judges as murderers of hir father, shee was a whille put under custody. He had been a man of a profligat vicious life, and yet his ladie tendred sundry petitions to the King ather to give him a fair hearing and tryall, or a pardon, or at leist his body; but all was refused hir. He seems by his carriage and speach, (tho he denyes all guilt whatsoever,) to dy very composedly and Christianly, and not so as Sidney does; (supra page 58:) but reviling epitaphs ware printed on him.—Ther was in the same house the tyme Sir Thomas was tane, the Lord Gray, Fergusson the minister, and Rumbold the malster; but they escaped for this bout.

Supra page 64, we see our great men are called up by the King, and the generality ware then of opinion that the Earle of Aberdeen, chancelor, would not be laid asyde, but that the King and his brother the Duke would command them to unite and agree in ther service. Yet when they came to Court, the Marquis of Queansberry, treasurer, and his party, had so prepossessed the King against him, and had got the Dutcheffe of Ports-

mouth, and the English Bischops and clergie on ther syde, that it was easie to overthrow him ; especially finding the Duke very luckwarm to him, and they representing, that they ware both more willing and able to prosecute all his Royall Hyneffes designs then he was, and that he had taken no pains, nor bestowed any coast to make the English his freinds ; likeas his mean retinue, (having only the Earle of Dumfermeling, and a few gentlemen, Gordonston, Rothemay, Cookfton, &c. with him) and obscure way of living did him that hurt, to afford the Earle of Midleton, secretary, ane occasion to mock him, and treat him in ridicule before the King. Tho the Scots Bishops looked on him as ther patron, yet the English clergie, by the infstigation of Mr. Faw, (whom the Hy Treasurer had sent up a little before him, and whom he hes procured to be made Principall of the College of Glasgow, in place of the deceast Mr. Edward Wright, without the A. Bishop's suffrage,) represented him to the King as a favorer of the Papists, who gave him the convoy as he came throw Northumberland, and flocked to him at London. Mr. Faw is also made the King's historiographer for Scotland, in place of Mr. Crawfurd deceast. And yet, now fince his fall, the Papists (who are somewhat soberer heir then they ware) brag, that the cause of his outputting was because he was beginning of late to countenance the Fanaticks, and to hinder them from being brought to justice, as Gordon of Earleston, the Lord Melvill, Lord Argile and Lorne, Cefnock, Sir James Dalrymple of Stair, &c. It's true, severall of his former freinds, as the C. Register, King's Advocate, &c. having deserted him, he fell in with my Lord Lauderdale, (after they had transacted the fyne of Dundie,) and Sir John Dalrymple, and other discontented persons ; and used them and the 2 Lockharts for his great counsellers, with whom he advised and abstracted himself wholly from the nobility ; which reservednesse they took in very ill part, besydes the grudge they had to see a lawyer and a gentleman step into that office which the nobility had intayled and monopolized for a long tyme among

themselves :—(See some observes of this supra pag. 36 at his entry, and from the 8vo manuscript cited their.) He has just but 2 years keiped his place, and many, at his surprizing advance, thought his governement would not P. 67.\* be laftie. The first year he acted very absolutly without noticing the nobility, and carried Blaikwood's interlocutor, and other things, with a very hy hand ; and sometymes gave his opinion on debates at Privy Counsell, as the fence of the board, without ever asking ther votes. This occasioned a combination against him about the tyme of our Circuit Court, in June 1683 and 1684, when they sent up my Lord Perth to London, to undermine him. Yet they could not obtaine it done then, which made him and others confident that the Duke of York would not part with him, being his oun creature, having no other legs to stand on but his and Huntlie's, and whom he might trust ;—for tho ther ware mistakes betuen him and Huntly, his cheiff, as that he was assuning the fimple coat of armes as not deschended of him, and that he took to himselfe the benefit of the translation made with Glenurchie of some lands in Caithnes, which the Marquis exspected should have been for his behooff, yet Huntly desirde none should chastise or punish him but himselfe.

To load the Earle of Aberdeen and the Bischop of Edinburgh, it was proposed at Court, that no man should be put of the Privy Counsell but by a letter from the King, bearing the accusations and causes of it ; but the Duke of York broke this designe, and thought it more smooth only to lay them asyde by a new commision wheirin they are left out.

The King gave the parties ane audience from 9 in the morning to 12. Aberdeen craved his Majesty might ordaine them to give in ther accusation in writing, and to signe it ; which he refused to put them to. Part of the heads they charged him with, besyde his want of a mine and deportment for so honorable ane office, ware, 1mo. That when Claverhouse craved a warrand from the Privy Counsell, that Sir James Dalrymple of Stair might be cited for treason in refetting intercommoned ministers in his house,

and offered to afford probation, the Earl of Aberdeen, then Chancelor, did oppose and stop the same, and called it only pique in Claverhouse. 2do. He obstructed and retarded the Toun of Edinburgh's count and reckoning, and the tryall of the magistrats malverstations; by which tuo he prejudged the King's revenue and the publick. 3rd. They laid the wholle blame of the Circuit Court upon him, and all the extortions and oppresion used by Mr. Thomas Gordon, the clerk, and others, in herrying the Western shires; and they did not stand to say, that he went snipe with them who wrung that money from the poor peopple. And they gave many other instances of his covetous griping temper; as his proceedings against Sir Alexander Forbes of Tolquhon, in depriving him of a peit gate, to force him to give him a licence in his moffe; item, with on Thomas Ronald, whosse means he got in 1679; and with Gray of Shivez, and with S. Alexander Seton of Pitmedden, in his clandestine inserting a clause anent his moffe of Logierniff, in a signator he was passing; in his acquiring in many confiderable parcells of land in 2 years tyme, and whence the price came they knew not; it was also aggravated that he had, with much zeall and violence, carried on that affair of the mint and coinage against Halton, &c., and within a moneth after the sentence, he had obtained a gift from the King out of that fyne for £16,000 sterling, tho he transacted it for the halfe; that once he insolently commanded Neuton, President of the Seffion, to hold his peace, calling him—Sirra, tho he recriminated against them that Perth and his brother the treasurer-depute, had called him a Rascall; but this was meer scolding. He made severall answers, but the King was so prejudicat and ill satisfied with them, that he fwore “God's Fisch, (the oath he uses when in passion) who recommended this man to me to be my Chancelor!”—and therupon commanded him to give up his commiffion; which he did, tho he and his freinds gave out, that if he would have condescended to act as Chancelor with the jun&to, he might have keiped his place: but he told the King, except he exerceit it as freely as his prædeceffor the Duke of

Rothes did, he could not serve him ; and the King telling him, he would be served in his oun manner, and conforme to his own measures, he then voluntarily dimitted. Tho many wonders why the Duke of York deserted him so easilly, and thinks this instance, and that of his forfaking the Earle of Lauderdale and the Lord Maitland, is not the way to get stout and P. 68. faithfull servants. Yet ther ware sundry presages of his fall, wheirof the King's naming a juncto to manage all his private affairs wholly confisiting of his enemies, was a great forrunner. Likeas, all this last winter they did so insignificate him in every judicatory, that they carried what they pleased by a vote against him, which made him weary of the place, and very indifferent whither he continued longer the but of ther envy or not ; especially seing, tho his tyme was short, yet he had feathered his nest weill, and made hay in summer whille the fun shone, and had bettered his fortune neir £1000 sterling a year, beyond the £500 sterling it was worth formerly. 3to. It was remarked as a bad omen, that the last winter his coatch horses on day refused to draw him to the Parliament House, and by no whipping would stir so long as he was in it, but walked right eneugh when he came furth till he offered to goe in again, and then they sat up of new. 4to. It was observed, he had contracted freindship with some unfortunate men that had, for a long tyme, been out of favor, as the Duke of Hamilton, the Earle of Home, &c. and syded with others who ware odious to the country, as the Bischop of Edinburgh, &c.

After he found that the King's affe<sup>t</sup>ion was alienate from him, notwithstanding the Duke of York's advise to him, and the intreatie of his freinds ther, he parted privatly from London, and took post the 22 of May, the day before the King's birth day, and came to Scotland on the 2d of June, to the great surprize and amazement of all ; but keipt things so close that generally all flocked to him, beleiving that he had gained the day : till after 4 days stay in the Abbey, he retired north, and took his furniture and plenishing with him, which gave the first ground of jealousie and suspition that his

affairs ware not right. The other party keiping the feild triumphed, and then the quaeftion fell in who should succeid him; fome ware for the Marquis of Athol, named to it when my Lord Aberdeen got it; others ware for the Archbifhop of St. Andrews, or Tarbet, Clerk Register, to be it: but after fome animosity, the King conferred it on the Earle of Perth, and figned his Commission to be Chancelor; and this being settled, they fell to the modelling and altering of feveral other offices, which we fhall fee (infra,) they got to their mind. And fo they came of in coach, in the beginning of July 1684, and arrived at Edinburgh the 10<sup>t</sup> of that moneth; wher they got a moft magnificent reception, by shooting of guns, and the forces drawen out, and the Magistrats meiting them in ther robs, fo that little more could be given ather to the King or his brother if they ware coming hither.

On Tuesday therafter, being the 15 of July, the Privy Counsell met; wher, firft, the Marquis of Queensberry, by a letter from the King, knighted George Drummond, Profeft of Edinburgh; then, 2<sup>da</sup>o, Perth's patent to be Chancelor was produced, and he receaved and fworne; then, 3<sup>ta</sup>o, the Earle of Linlithgow's commission was produced; for they had wheedled him out of his place of Collonell to the regiment of foot, and given him that moveable and variable office of being Justice Generall, (as Sir Archbald Primrose had been fo mocked out of the Register's office before him;) and this was done of purpose to make a vacancy, that James Douglas, the Hy Treasurer's brother, might get his place of Collonell, and accordingly his commission to fucceid Lithgow in that regiment was red in the 3<sup>rd</sup>. place. Ther was altercation at London to have bestowed the Justice Generall's place, vacant by Perth's advancement, on the Earle of Strathmoir, Midleton's brother-in-law, or on Tuedale; but they at length gave it for a tyme to Lithgow, with £500 fterling pension per annum. Lithgow fies the cheat, but cannot mend himfelfe, only he bids any who fucceids him keip it as long as he hes done, which is 22 years, and he defies them: his method was by

giving money to the Dutcheffe of Lauderdale and others in power; how- P. 29.  
ever, Sir William Ker merrily told him he might now hang all the Whigs  
without endangering the King's forces, or retiring as he did shamefully at  
Inchbelly bridge, when they ware in armes in June 1679; only he says  
for himselfe, he had a privat order to forslow the joyneing with the enemy  
till the Duke of Monmouth (who was then made Generall,) should arrive.  
Then the new commiffion of Privy Counfel, was produced and red; wheirin  
ther ware 7 members contained in the former commiffion of Counsell  
omitted and left out in this, viz. the Duke of Monmouth, the Lord Lorne,  
the Earle of Dundonald, Earle of Aberdeen, the Bischop of Edenbrugh,  
the Lord Maitland, and his brother-in-law the Lord Elphinston; and ther  
ware 4 new young counsellers added, viz. the Earle of Arrane, Lord Drum-  
lanrick, Lord Yester, and William Hay of Drumalzier his unckle, besyde  
the Chancelor and Treasurer of England, who for honor's sake ware made  
counsellers with us, because our 2 Scots Secretaries ware made counse-  
lers in England. They had given the King a very bad impreffion of the  
Bischop of Edinburgh, so that he was not only turned out of the Counsell,  
but his pension he had from the King of £100 fterling, was revocked,  
which he got on a false representation, that he payed that much out of his  
benefice to the prebends, wheiras he caused the moft part of them renun-  
ceat ere he would collate and admit them, and keiped fundry churches,  
wheirof he was patron, vacant, that he might lift the stipend *medio tem-  
pore*; but the English praelats thought it *mali exempli* for the King to  
lay afide or deprive even a vicious Bischop, because it opened the Whig's  
mouths and reflected on the order. In the 5<sup>t</sup> place, Drumlanrick's com-  
miffion was red to be Captain of a new troup of horse to be levied, and to  
be Lieutenant-collonell to Claverhouse. And in the laft place, was red  
James Nasmyth of Posfo's gift to be quartermaster to a regiment, and to be  
falconer to the King, for which he hes a pension of £200 fterling a year.

The King having made the Earle of Perth, his Chancelor, to be

Shireff-principall of Mid-Louthian, in place of the Earle of Aberdein, the last Chancelor, who had that office before, (so that it seims they mind to make that Shireffship follow the Chancelor's office, as a pendicle theirof, tho it boor not to him as Chancelor and *successoribus in officio*,) the nixt day, being the 16 of July, the heritors being all invited to be present by letters, the said Chancelor was admitted, sworne, and receaved, in a fenced Shireff court, and the Hy Treasurer, William Fletcher, and Mr. Thomas Skein, the 2 Shireff-deputs theirin. Some ware displeased that Mid-Louthian should be so treated, that nather its Sheriff-principall nor deputes, had any interest as heritors in the shire. To the fix who remained of the jun&to or secret Committee of Counsell, (E. Aberdein being laid aside,) the King by his letter, added tuo more, viz. the Archbisshop of St. Andrews, and Newton, President of the Seffion; who will signify more now in affairs, especially in Seffion, then he did, the present Chancelor not being able to ecclipse him as the last, who (to give him his due) was both ane sagacious lawyer, and ane indefatigable spirit for serious busynesse, when he gave application of mind to it.

Thus fell the Earle of Aberdeen from this office, with as great a sur-prize to all thinking men as his advancement to it was; and tho the secret springs of this catastrophe and revolution ware not seen, nor by what ingadgments and undertakings they had recommended themselfes as more usefull then he; yet many had ther fears that ther governement should never be a white more calme and oblidging than the former ware; and the vulgar was ready to suspect that a connivence at Papists was promised with the introducing the English Liturgie, or service books, at leist in the Abbey church; but some said, the Papists neided no more toleration then what they enjoyed already, they wanting nothing but the publick exercise, and some of our churches; but that they would verify the character of the præfervid Scots genius, they ware seiking to stage the Earle of Aberdeen, on ane a&t of Privy Counsell, made by himselfe in May

1682, making shireffs lyable for any conventicles within ther bounds, if they did not diligence, ather to dissipate them or tymeoufly to discover them, (the making of which a& Duke Hamilton and others did much oppose,) P. 70. and they heard ther was a conventicle in Mid-Louthian ; but after a pre-cognition tane of the witnessses, it was found to have been in Tuedale-shire, onlie a penny stome cast of the March betuen it and Mid-Louthian. Its thought ther vehemence will not stop heir, for they are searching out his other malverstations, and are trying if they can deprive him of the £100,000 Scots Halton was to pay him, as a part of his fyne. Befyde the conjectures of the promise of a toleration to on party, and ane uniformity in worship for all the rest ; it was talked, the rigorous exacting of the oath of the Test was to be relaxed *quoad* some, and it was resolved, for a principle, that none suspected of phanaticisme should be advanced to any office or place in Scotland. This, among many former instances, may teach us how lubrick and staggering a thing the favor of Court is ; and yet the disgracing the predecessor, nether deters the successor from accepting, nor serves for ane beacon and admonition not to shipwrack on these rocks others had splitted on before him. But it is very just and fit ther should be such ane uncertain circulation ; for besydes, that it helps to wean our thoughts of thir giddy inebriating sublunary contents, and draw up our hearts to a more noble reward, without this, vertue would starve, and its blossoming hopes and expectations would be nipped in the very bud.

This is a part of what our statsmen thought fit to discover of ther actings above ; for, as Dean Annand observed, the nation was become lately guilty of a sin which they had not been subiect to of a long tyme, viz. the sin of secrecy in keiping all ther affairs very cloffe. (See thir things abridged and some farder remarks on them in my 8<sup>vo</sup> manuscript of Session occurrents, marked I, in Jully 1684, page 88 ; and in my folio law MS. at the said tyme, page . . .)

While thir things ware in agitation, our country lost 2 worthy men by

death, in England, viz. holy Bishop Leighton, and Mr. Brisbane, clerk to the Admiralty their, and it is not a small nation that had 2 such eminent men to spare in a week's tyme.

In June and Jullly 1684, the Imperiall forces, under the command of the Duke of Lorrain and Count Leslie our countryman, having rancountered at 2 severall tymes, with 2 armies of the Turks, (the last of the tuo consisting of no fewar then 35,000 men,) they did give them a signall rout and defait, and killed 4000 janisaries, and took many prisoners ; and put the rest in that fear and consternation, that they left the tounes of Vacra, Virovitza, and Pest, to the Christians ; who, theirupon, to pouffe forward their victorie, besieged the city of Buda, the capitall of Hungarie, and beat them from the nather toun to the upper toun and castle, which made great resistance, and cost much Christian blood : (see infra page 72.)

In August 1684, some of Claverhouse's troup, bringing 16 prisoners from Dumfreis, they ware assaulted by some Whigs at a strait passe of Entirkin hill, and 2 or 3 of the King's forces ware killed. Item, Mr. Spence is, by the Counsell, tortured both with the boots and the thummikins. See thir at more length in my law MS. in this moneth, page , wheir we have a note of the said Mr. Spence's confession, with what followed theron, and how some of thesse rebels who assaulted the King's forces at Entirkin hill ware hanged ; and on Nicol of ther principles, unnecessarily and officiously discovered himselfe at ther execution, and was himselfe, for his perverse and disloyall obstinacy, executed. Item, the new lieutenancies, and modells of Privy Counsell into committees, to goe throw fundry shires to inquire for the rebels. (See all this ubi supra.)

P. 71. On the 22 of August, 1684, Mr. Alexander Burnet, Archbishop of St. Andrews, dyed at his house of the Abbey of St. Andrews, having taken ficknesse 10 days before, at the consecration of Mr. Cairncrosse to be Bischop of Brichen, and was buried in St. Salvator's Church cheir on the 2d. September theirafter. He was a man of much moderation and temper,

especially since he was laid asyde in 1669, and then again restored in 1675. He was succeeded by Mr. Arthur Rosse, Archbisshop of Glasgow, not so much advanced for any respect our statmen boor him, as to remove him from Glasgow, wheir his carriage had made him odious ; and to make roume for Mr. Cairncorse, Bisshop of Brichen, to be Archbisshop of Glasgow, that he and the Hy Treasurer (whosse fister, Jarden of Apple-girth's relift, he was to marry,) might governe all the West Countrie at the Treasurer's pleasure ; and the Chancellor got on Doctor Drummond, minister at [Muthill,] to be Bisshop of Brichen. The Bisshop of Edinburgh preached the A. Bisshop's funerall [sermon] ; and made Bisshop Sharp, his predecessor, a martyr for our Church, and Burnet only a confessor, and indirectly præferred Sharp. He was buried besyde Bisshop Kennedy, who sat in King James the 2<sup>d</sup> and 3<sup>ds</sup> tyme, and was a good man. Some made a merry dialogue betwen them, wheirin Kennedy askes at Bisshop Burnet, What bridges and hospittalls he had builded ; who bluntly answers, that his son-in-law, Rorie Mackeinzie, hindred him from acts of charity. He was the 47<sup>t</sup> Bisshop who sat in that chair ; his father was minister at Lauder.

In the end of August 1684, the King by a message eased the Lord Roberts, Earle of Radnor, of being Prefident of his Privy Counsell, (but in testimony of his kindness continued the pension with him,) and put Hyde Earle of Rotchefter in his place ; and advanced Sidney Godolphin, his secretarie, under the title of Baron or Lord Godolphin, to Rotchefter's office as on of the Commiffioners of the Treasurie ; and put our Scots secretary, the Earle of Midleton, into his place of English secretary, as conjun& with Sunderland. This was the Dutchesse of Portsmouth's doing ; and some thought Midleton not wise in changing, (tho it be worth £5,000 sterling a year, and 3 or 4 years will inrich on,) for envy follows greatneſſe as naturally as the shadow does the body, and the English would sooner bear a Mahometan for ther secretar then a Scot, only he hes now a good English

ally, by marrieng Brudnell Earle of Cardigan's fister. Our office of Scots secretary, after some debate among our statesmen, was conferred on Lundy, Treasurer depute, wheirby the Chancelor's court was somewhat more fixed and strenthened, being formerly precarious on the Hy Treasurer as of his creation ; and his office of Treasurer depute was given, in the moneth of December theirafter, to Keith Earle of Kintore, who was then sworne, admitted, and receaved.

Supra pag. praecedenti, we see Spence tortured with the thummikins, (ane ingine but lately used with us;) now, on the 4<sup>t</sup> September, Mr. William Carstairs is also put to the same tryall ; and Comisar Monro being threatned with them, he and Carstairs discouers the bottom of this Scots plot, that ther ware fundry conferences and meetings anent debaring the Duke of York, and associating with the English for preserving our religion, and raising war, &c. ; wheiron the Earle of Tarras, Murray of Philiphaugh, Sir John Dalrymple, and many others, to the number of , (named in my law manuscript, at the 4<sup>t</sup> September 1684, page ,) are apprehended and imprisoned. Polwart, and some others, escaped ; and because I am full ther, I contra&t it into shorter bounds heir, to avoid repetitions.

About the middle of September, 1684, his Majesty, by a letter, empowered a certain number of his Privy Counsellors, to the number of 12, with a iusticiarie power, to go and hold courts in the western and southerne shires, and divided them in 4 distri&ts, 3 Counsellors to each court, viz. at P. 72. Dunce, Dumfreis, Air, and Glasgow. The tuo principall effects ware, the Heritors taking the Bond that themselves, ther tennents, and all on ther ground, should observe the ecclesiastick penall laws against conventicles, absence from church, resetting rebels, &c. 2<sup>do</sup>, The voluntar offer of a cesse to the King : But see more of their actings, in this commission, in my folio law manuscript, in September and October 1684.

On the 27, and 28, and following days of October 1684, happened a great storme of snow and frost, with thunder and lightening and much

shipwrack of many wessells at sea ; and Holland was afraid to have been drowned, ther banks was so shattered with the sea. The snow lay some days at London, but had not been obſerved for many years to come ſo ſoon in the year, and thunder there is very unuſuall : we ſay Winter's thunder is Summer's hunger, which God prevent. This tempeſt drove in alſo upon our ſhoares and ſand a new kind of iſch like a mackrell or herring, but with a long finout like a ſnipe's beik. Doctor Sibbald ſayes it is the *Acus marinus*, the ſea neidle, deſcribed by him in his *Naturalis Historia* ; they have been ſeen before, but are not frequent, and therfor are looکt upon by the vulgar as ominous.

In November 1684, we had the ſad account of the raiſing the ſiege of Buda, (de quo ſupra, page 70). This toun was perfidiously feized upon in 1541, by [Solyman] Emperor of the Turks, and the recoverie of it heſ been thrice attempted ſince, but unſucceſſfully. The beginning of this ſiege was promiſing, for the Imperiall forces gave the Serasquier Baſha (who is generaliſſimo of all the forces in Europe) a little defait ; on the news wheirof the Grand Seignieur was ſo inraged, that, being in the fields, he threw himſelf on the ground, and tore the graffe with his teeth, and none, for ſome ſpace, durft come neir him. The Turks loſt 3 Govenors in the ſiege, but defended it with great resolution. Much of the flower of the Auftrian and Hungarian gentry ware conuſed and loſt heir ; and the reſt had much diſſiculty to retire, tho they had the help of the river Danube, and reſolved to have converted the ſiege unto a blockade during the winter, finding that proviſions ware turned ſo ſcarce in the toun, that a pound of horſe and camell's iſch, was fold at 22 ftyvers ; but their being a freſch recruit, both of men and vi&tualls ſecretly conveied unto the toun, the Chriſtians ware forced to give over the ſiege, and above 2000 of the German horſes dyed for want of forrage and proviſions. This proved a great diſcouradgement to the Chriſtians on the on hand, ſo it emboldened the Turks on the other, as repairing and compeñſing the

affront and losse they suffered the former year, (*supra*, page 56,) in leiving the seige of Vienna, and confirmed them in ther infidell argument of successe; wheiron the Emperor hung out at Constantinope 3 horse tails, and Mahomet's standart, inviting all souldiers to his army nixt spring, which he resolved should consist of 300,000 men, and baited them with the promise of double pay:—so the Emperor may be swallowed up, if he get not help, and the Princes of Germany, especiallie the Protestant ones, (except Bavaria, who is Popish,) gave him no great affiance this summer, not being curious to conquer tounes and countries to him. The Venetians intended to have annoyed him by sea, or some attempt to surprize the Dardanells, beside Constantinople, but that was too bold ane interprize. A Christian woman at Castelnova was taken, desyning to fyre ther ammunition house; hir hands and feet ware cut of, and her body throwen to the dogs on the dunghill.

P. 73. In November 1684, the Duke of Ormond, as aged, desyning to be fred of the governement of Ireland, the King named the Earle of Rotchester to be Deputy ther. On Goodman, a comedian, is accused for attempting to poison the King's 2 naturall sones, the Dukes of Grafton and Northumberland, in a flask of win. Sir James Smyth is named by the King to be Lord major of London for this enshueing year. Sir William Prichard, the late mair, porshues Du Bois and Papillion, the old sherriffs, for wrongous arresting and imprisoning him the tyme of his majoralty; and it's proven against them, that at a consultation among them, in Russell's house, it was so resolved on, that they might the more easily carry on ther desyning conspiracy and association, and they are fyned in £1000 sterling damages for it. Titus Oats is also indyted for perjurie, in swearing that Ireland, the Jesuite, was at London the beginning of September 1678; wheras it is proven now, by many witnessses, that he was then very remote from London, over seas at Saint Omers; (vide more of Oats infra, page 84.) On Russell, a non-conformist minister, is accused for preaching in Sep-

tember last ther feditious words, "That peopple thronged to the King to be cured of the King's evill, but they should come to them who ware both Preifts and Prophets, who could heall ther sores, for we had 2 bad Kings like Jeroboam, but if they stood to it they should overcome ther ennemis;"—tho he brought in many of his parishoners, who witnessed that they ware present that day, but heard not theſſe 2; yet their was 2 who deponed poſitively that he uttered theſſe words. Mr. Joseph Hayes is alſo proceſſed for having remitted £150 ſterling to Sir John Armstrong, after he was rebell and fled to Holland, and ſo for cor-responding with and affiſting traitors. The Jury thought the probation not full, and ſo returned him not guilty.

On the 8<sup>t</sup> November 1684, was the Presbyterian Declaration (so called) affixed on sundry mercat crosses and kirk doors, by the Whigs in the western shires, threatening, that if the curates and souldiers, &c. would not give over the persecuting and searching of them, but brought them still to publick deaths, they would not spare to shed ther blood by ther ounme measure; seing they could not doe it now in a legall judicative way, and they disouned Charles Stewart to be ther King. And in prosecution of this, some of thosse ruffians fell in, at Suin Abbey, beside Blaikburne in West Lothian, and murdered Thomas Kennoway and Duncan Stewart, 2 of the King's life-guard, in a most barbarous manner. Some thought that Whig Declaration was but a State invention, set on foot by the souldiers, to make that party odious, and themselves necessary; but this convinced every one of the reality of this declared war. Three fellows called Wat, Semple, and [redacted] are apprehended, who refusing to disoun that Declaration as unlawfull, are hanged, and carried from the bar to the gibbet, and ther bodies are stollen by weemen the nixt night.

Porterfeild of Ducholl, is also proceſt and condemned for treason; 1<sup>o</sup>. For reſetting his brother a declared traitor, for being at Pentland-

hills ; 2<sup>do</sup>. For conceiling that Sir John Cochrane was seiking a collection and contribution for my Lord Argile, after he was forfaulted. See thir at more lenth in my law manuscript, the dayes of November 1684.

In the end of that moneth, a new search was made throw Edinburgh for thesse phanaticks and ther refetters ; and any they suspected they put to disoune the Whig Declaration, and to declare they acknowledged the King's authority. Item, by a proclamation our Parliament is appointed to meit on the 10 of March nixt, wheir the Duke of York was to be present ; but the death of the King, his brother, interveined.

P. 74. In the end of October 1684, dyed James Campbell, Earle of London, at Leyden, some dayes before his denunciation to the horne as a fugitive, being cited to appear as guilty of the late conspiracie with Argile. Some alledged his death was but simulate, like my Lord Belhaven's drowning in Solway fands ; but their ware clear proofs of it. And at this time, Sir James Hacket, our countreman, on of the King's best souldiers, dyed at London of his wounds from Endymion Porter's sone.

17 Novris. 1684. Sir John Cunyghame, advocat, a person of great merit and learning, dyes at Edinburgh.

In the same November terme, at London, ther was on Dolben pershued for calling the King a Papist, and that the Duke of York had brunt the city of London. Another, called Mr. Boort of Kingston, is accused for saying Oliver Cromwell's governement was better and easier then the King's.

In December 1684, we ware troubled with the rumors of visions and apparitions, viz. a shower of blew bonnets seen in the air at Glasgow, and evanished when they came neir the ground. Item, a shower of blood at Moffet : and a litle ghost and specre appears at Rosneth, on of my Lord Argile's houses, wher Athole has got his locality, and placed a garrison of 50 men ; it beats the sojors sometimes, and bids them make good use of their tyme, for it shall not be long. But many of thir things are forged.

The Earle of Sunderland, on of the 2 secretaries of England, was designed to be advanced to be Hy Tresurer, so that our Earle of Midleton is at present sole Secretar of England.

Doctor Gilbert Burnet having preached at the Master of the Rolls chappell on the 5<sup>t</sup> of November laſt, being the commemoration of the Gunpowder Plot, he cited ane expreſſion of Sir Edward Cook, Lord Cheiff Justice in King James the 6<sup>th</sup> tyme, that he heard King James had intayled his curse upon any of his poſterity who ſhould apostatize from the Protestant religion to Popery; he being quarrelled for this, and having produced the book, licenced to be printed, and of ane famous author in great reputation, he was ſilenced and deprived, as not having ſufficient authority and voucher for ſuch a *scandalum magnatum*, unleſſe he could ſhow the expreſſion in any of King James's oune printed works. It was cited out of Judge Crook's Reports.

23 Dec<sup>ri</sup> 1684, Mr. Rot. Bailzie of Jereſwood is pannelled for hy treason, and condemned on the 24, and hanged and quartered that ſame day: (ſee the full account of this tryall in my folio law manuscript at that day, page .)

25 Dec<sup>ri</sup> 1684, being Chriftmas, the Archbifchops of Glaſgow and St. Androis are tranſlated, and the Bifchop of Brechin conſecrated: (ſee that alſo ubi ſupra alibi, item, ſupra, pagina 71.

About the ſame tyme, we had account that the French King, as he was hectoring the Republick of Genoa, in Italy, unleſſe they would ſend their Doge and 4 of ther ſenators to Paris, to crave him pardon, (de quo ſupra, page 65); ſo he renewed his perſecution againſt the Proteſtants, by cruall ediſts; and particularly, he commanded thofe of the Conſiſtorie of the church at Charenton, to give in an inventar of their revenues, and to anſwer by what warrand they met their; and they ſhewing ane a&t of King Henry the 4<sup>t</sup>, he was reſolved to cauſe demolish P. 75. that church, and ſend ther meiting-houſe to Ablon, (wher formerly the

Protestant church for Paris stood,) a great way farther off. It's reported, the learned Monsieur Claude, minister at that church of Charenton, is very sick.

In December 1684, news came by ships from the East Indies that the Tartars had now invaded China, and overrun and conquered all that great country, and had banished the factors, and refused any commerce or trade with Europe.

## ANNUS 1685.

IN the beginning of this year, on James Cathcart, a pretended mathematician or astrologer, emitted a printed paper at Edinburgh, inviting any to come to him and get resolutions of any difficult quaeftions they had to ask, such as anent ther death, ther marriage, what husbands or wives they would get, and if they would prosper and succeed in such projects of love or journeys, &c., and if a woman was with child of a boy or a girl, and other such curious things ; as also, professed skill to cure the French pox, and other diseases. This was a great impudence in a Chriftian Commonwealth to avow such ane art, for if he had it by magick, then he was a forcerer, if not, he was ane impostor and abuser of the peopple, which even is death by our 73 A& Parl. 1563 ; and in his paper he cited some texts of Scripture allowing ane influence to the stars ; as

Ther was also, at the same tyme, another printed program affixed by 2 fouldiers in Collonell Douglases regiment, to shew ther skill in fencing, appealing on another at broad fword, dagger, fancion, and all the other weapons ;—they wounded on another slightly :—their was a litle money payed for a fight of this gladiatory joco-serious divertishment.

Ther fell out a great plea, at this tyme, betuuen the Prince of Orange and the town of Dort, he clameing the nomination of ther burgomafters and magistrats, and they refuseing him the priviledge ; it was manadged with great animofitie, but at laft the Court at the Hague gave sentence in favors of the Prince, and put him in poffeſſion. What Amſterdam feared from the Prince we know not, but all ranks of peopple, great and ſmall

without exception, ware employed in repairing and fortifying their out-works and bulwarks, without so much as fitting idle on the Sabbath day; and in the tyme of frost they threw water on ther ramparts, which frezing, made them so滑ery that none could stand or goe theirupon, which extorted laughter from others.

The Marquis De Grana, governor of the Netherlands, his 3 years being expired, it's reported, the King of Spain, his master, resolves to continue him longer theirin; tho ther bygane practise hes been for a triennial change, leift they should render themselfes popular by a too long stay.

The few handfull of phanatick rebels left in the West turning very insolent, the Hy Treasurer (to put a rub on Claverhouse, who had been lately ther in December last, and could not wholly suppress them,) causes his brother, Collonell James Douglas, select out of his wholle regiment 200 of his prettiest men, and by order from the Privy Counsell sends him against thesse rogues, that the glory of defeating them might fall to his share. And accordingly Douglas, being on day in the fields in Galloway, with a small party of 8 or 10, he meits with as many of the rebels at a house, who kill tuo of his men and Captain Urquhart, Meldrum's brother, and had very near shot Douglas himselfe dead, had not the Whig's carabine misgiven, wheron Douglas pistoled him presently. Urquhart is the only staff officer this desperat crew have yet had the honor to kill; he was brought in to Edenbrugh, and buried with much respect.

They came a company of them to Kirkcubright and killed 2 men, and caused a minister called Mr. Shaw, to swear he should never preach again in Scotland; and the Bischops offering to louse him from this oath as unlawfull, he refused ther absolution, alledging, it would have been unlawfull to have sworne never to preach again, but he had only bound up himselfe from preaching in Scotland, and tho extorted by fear of liffe, yet it was safest to keep it.

P. 76. In Januar and Februar 1684, ware held by his Majesties order, Circuit

Justiciarie courts, for voluntar offers of Cesse, and taking the Test by heritors within the toun of Edinburgh, the 3 shires of Mid, Eift, and West, Louthians, for Fyffe, and Murray betuen Spey :—see it at lenth alibi.

On the 2d of Februar 1685, being Candlemasse day, in the morning, our King fand himselfe ill when he rose, and his tongue was obserued to falter when he spoke ; and having called for his barber, a convulsion fit of ane apoplexie seized upon him, and drew his mouth asyde ; he lay fenselesse in it ane hower and a halfe, and 12 unces of blood being drawen by a chirurgian near him, without phyfitians, for which he might be queftioned, and couping glaſſes applyed to his head, he started, but relapsed again, and lay in it ſome howers, and his arme at which the blood was let withered. But he revived and continued in a hopefull way of recovery to the 5<sup>t</sup> day of Februar, being Thursday ; and then the fits recurring, he fell ſo weak that he diſpaired of life, and very ſtayedly composed himſelfe to dy, called for his brother the Duke of Albany, craved him pardon if ever at any tyme he had offendēd him, and recommended to him the care of his Quean and children, and delivered him ſome papers, and intreated him to maintain the Protestant religion ; and took very devoutly the facra-ment from the hands of Doctor Can, Bifchop of Bath and Wells, and re-graſted he ſhould be ſo troublousome to his friends as to keip them from reſt waiting on him. His Quean, throw fickneſſe, not being able to come to him, ſent to ask his pardon and how he was ; he anſwered, “ Ah, poor Lady, many a tyme have I wronged hir, but ſhee never did me wrong.” He dyed peaceably on Friday at 12 a cloak of the day, being the 6<sup>t</sup> of Februar, being but 4 days ill. Immediatly the Duke of York called his counſell, and had words to this purpoſe :—“ My Lords, the Croun is now deſchended upon me, I doe declare I will never alter the governement as it is now eſtablished, both in Church and State, and I will ſacrifice the laſt drop of my blood to maintain the Protestant religion, and as far as it lyes in me I will follow my late Brother’s example.” Yet his printed

speach (tho longer) is not so full and satisfactorie on the point of religion as this is. Then he took all his brother's Privy Counsellors sworne to him ; and not only continued them, but by a printed Proclamation, continued all other judges and officers till he declared his farder pleasure, or considered ther mismanadgements. Then they with the Mair and sherriffs of London, proceeded to the proclaiming him King ; and expresses ware dispatched away to Scotland and Ireland with the news. It arrived at Edinburgh on the 9<sup>t</sup> at night late ; and he was proclaimed King under the name of James the 7<sup>t</sup> the nixt morning, at the Mercat Croffe of Edinburgh, by the Chancelor, nobility, bischops, and magistrats, (see it alibi;) but peoples greiff was more then their joy, having lost ther dearly beloved King. He was certainly a prince (whosse only weak syde was to be carried away with the pleasure of weemen, which had wasted and decayed his bodie excessively, tho he was only 55 years old,) indued with many Royall qualities, and of whom the Divine providence had taken a speciall care by preserving him after Worcester fight in the oak, and bringing him miraculously home without a drop of blood shed ; so that the Emperor of the Turks said, if he ware to change his religion, he would choise to worship before any, the King of Brittain's God, who had done such wonderfull things for him. A star appeared at noon day at his birth ; he was a great mathematician, chemist, and mechanick, and wrought oft in the laboratories himselfe ; he had a naturall mildnesse and command over his anger, which never transported him beyond ane innocent puff and spitting, and was soon over, and yet commanded more deference from his peopple than if he had expressed it more severely, so great respect had all to him. His clemencie was admirable, witnesse his sparing 2 of Oliver Cromwell's sones, tho on of them had usurped his throne. His firmenesse in religion was evident ; for in his banishment he had great invitations and offers of help to restore him to his croun if he would turne Papist, but he alwayes refused it. As for his brother James, now our present King,

he is of that martiall courage and conduct, that the great Generall Turenne was heard say, if he ware to conquer the world, he would choise the Duke of York to command his army. All our 6 King James's in Scotland ware gallant men, tho somewhat unfortunat. Cauffin is impertinent, in his Holy Court, to assert that good Kings ware so rare, that the circle of a ring could hold all ther names. Many wondred to see his peaceable arriveall to the Croun of England, confidering the many attempts had been made against him by the bill of seclusion and association, wheirin the late King carried with admirable prudence and circumfpe&tion; for in April 1679, he offered to them, (if they would lay afide ther demands of debarring the lineall successor,) in case of a Popish King, that the Parliament should have power to reassemble and fit for fix moneths, till they secured all places in Protestant hands, with many other concessions; which Shaftesberry and his party reje&ted. If God had in 1679, or shortly therafter, called for the King, his brother would not have found so easie acceſſe to the throne; but that prævalent fa&tion would then have fet up Monmouth, who, in that brash the King then took, inhanced the cuſtody of the King totally. But Divine providence hes been very favorable to him, in sparing the King till *cunctando* they had dissipat that gathering cloud, and that the people ware somewhat recovered of theſſe fears and jealousies, with which they ware tormented; beſides, 2<sup>do</sup>, It was a ſurprize throw the ſuddenneſſe of the King's death, and his Brother was put in poſſeſſion, and his forces about him, ere they got leaſure to think; 3<sup>to</sup>, The City of London is infinitely rich by ther long peace and trade, and ſo lyſes quiet, leift he put forth his hand to ther treasure; 4<sup>to</sup>, Both Quean Mary and Elizabeth ware ſecluded by A&ts of Parliament, and yet the naturall channell of ſucceſſion was ſo juſt a plea, that they obtained peaceable poſſeſſion. And the preſent King hath gained the reputation of a juſt Prince, and ſerious and frugall, ane ennemy to all luxury and vice, addi&ted to trade, and ane encouradger of all ſeamen and ſouldiers, and very rich. Many addreſſes

came flocking to him from all degrees and ranks of people, congratulating his ascent to the crown, as from the Bishop of London and his clergy, from the lawyers and Innes of Court, from many burrows; as also, our Bishops and Privy Council, and towne of Edinburgh, sent up such addresses. He issued out a Proclamation for exacting and uplifting the tunnage and poundage with the excise, and instances that he had the opinion of his judges for it, tho some of these had only been granted during the last King's life, and had created much stir and trouble in King Charles the 1<sup>st</sup> reigne; but he mollified them by calling a Parliament to meet the 29<sup>t</sup> of May, which was looked on as a bold attempt, his brother, P. 78. these 4 years, not adventuring on it, thir Parliaments had turned so capricious; but he thought it as good to try them now as afterwards. See the A& continueing the tunnage and poundage, in Rushworth anno 1640, declaring it to be given by way of favor, its page 1382; see infra more p. 80. For sparing his revenues, he restricted his brother's 12 bed-chamber men to six; and in place of his brother's natural son, Dom Carlo, Duke of Lennox and Richmond, by the Dutchesse of Portsmouth, who was master of the horses, he puts in Collonell Leg, Earle of Dartmouth; and creates Laurence Hyde, Earle of Rotchester, to be Hy Treasurer of England; and the Marquis of Halifax to be President of the Privy Council; and Hyde, Earle of Clarendon, to be Privy Seall; and Somerset, Duke of Beaufort, formerly Marquis of Worcester, to be [Lord President of Wales.]

On the 14 of Februarij 1685, the late King is privily interred in King Henry the 7<sup>th</sup> Chappell at Westminster, his Royall Hynes the Prince of Denmark (who is now created a Privy Counsellor,) being the cheif mourner. It was alledged, to have been the King's own desire to be so interred; others said, it was unfit to make a publick solemnity, unless it had exceeded in splendor Cromwell's funeral, which would have been very expensive. These restless and lying phanatiques whispered, they did not

love his sudden buriall, as if it had looked like foul play. Then ther was ane order to all the churchmen, to raze out with a pen the name of Charles, in all ther service books, and insert James and Marie, and ther Royall Hynesfes [Mary] Princeffe of Orange, and Anne Princeffe of Denmark. The Lord Churchhill is fent away Ambassador to the French King, to give him account he had succeid to the Croun. And the Dutchesse of Portsmouth is desired by him not to part from England till shee satisfy such of his subiects as are hir creditors. She was likewayes transportring 50,000 lb. sterling in gold and jewells privatly; but the cus-tomers seized on it: shhee hes a fair estate before hir alreadie. I forbear to insert heir what passed in Scotland on this emergent and revolution, and anent the calling a new Parliament to meit with us on the 9<sup>t</sup> of Aprill, &c.; because I give a full account of them in my folio law manu-script, in this moneth of Februar 1685, and so shunns repetition heir.

Charles the 2<sup>d</sup> fell with few or no prognosticks or omens praeceeding his death, unlesse we recur to the comet in 1680, which is remote, or to the strange fisches mentioned supra, page 72, or the vision of blew bonnets, page 74; but thesse are all conjecturall: vide supra Holwell's Prophecies in his Catastrophe Mundi, page 55 supra; item, the double of Sir James Galloway's prophecies besyde me; wher he sayes,

J. R. shall into sadle stryde,  
And furiously to Rome shall ryde,  
His principles no longer hyde, &c.

In none of which ther is anything for a rationall man to fix his belieff upon. The King, the Sunday immediately following his brother's death, went openly to his Quean's popish chappell, and heard Mass, and declared, that when he was a subiect, he had that respe&t for the laws of England, that he would not break them, but now as King, being above the executive force of the law, he ouned his religion, which was judged ingenuity. Some Popish Peers and others having petitioned

him for the publick use of a church, he denyed it, and told them, they beguiled themselves if they expected greater freedome from him then they enjoyed under his brother. But in regard of his oun private persuasione, [as] he could not weill exerce the ecclesiasticall authority inhaerent in his crowne, he granted a full commission, under the broad seall of England, to the Bischops of Canterbury, London, Chester, and Ely, who is Dr. Turner, to be his delegats in all church affaers; which was the more noticed, that London and Chester ware for the bill of seclusion against him. This was better lodged then by King Henry the 8<sup>t</sup>, who named the Lord Cromwell, a layman, his vicar generall *in spiritualibus*, when he shoke of the Pope's supremacy. But many thought our King could not delegat any intrinck power, or church jurisdiction, only to 4 Bischops privative of the rest, it being competent to the wholle body. Then, to discouradge debauchery, the P. 79. King emitts a proclamation against drinking, swearing, &c., and declares he will retain no servants guilty of anie debaucherie; and to give his subiects a good example, he dismises Madame Sidely, his Quean's waiting woman, with whom he had been familiar, allows her a penfion, and discharges hir the Court; and confessed, that prophanity was the great blemish of his brother's reigne, and he would not permit it. His counsell declares, by ane act, reverfions and surviveances of offices void and illegall. The Marehall de Lorge is sent over from the French King to condole his brother's death, and Monfieur Tilly from the Marquis de Grana, governor of the Netherlands, and sundry persons of honor from the princes of the royll blood of France. But our King hearing how the French King had receaved Churchill, he payes him in his oun coin, and receives Lorge sitting in his chair of state in the gallery with his hat on; which some French resented, tho it may be meer policy, to give it out that ther is a misunderstanding between the 2 kings, to please the English. The last King admitted embassadours without any pomp or ceremony, to speak him standing in his bedchamber with his hat of.

The change upon the face of the English court is very remarkable : in the last King's tyme mirth, playes, buffoonerie, &c. domineered, and was incouraged ; now, ther is litle to be seen but serioufnesse and businesse, for *Regis ad exemplum totus componitur orbis* : he is grave, and of much application to publick affairs ; and the same imitation also holds in religion ; Jeroboam turns idolater, the wholle ten tribes of Israel set up idolatry, and and desert God's true worship, so ane idolatrous prince is a great misfortune ; yea, Israel was punished for ther king's fault, viz. David's numbring the peopple ; (see Camerarij *Horas Subsivas, seu Meditationes, tomo 1, cap. 66.*)

A proclamation is ishued out, that the King designes he and his Quean should be crouned on the 23 of Aprill nixt, being St. George's day ; and ordaining all the peers and peereffes, (the peereffes most attend the Quean in scarlet robes and coronets) with the Mair, (who is to be cupbearer that day,) and aldermen of London, &c. to attend the solemnity, and all who by ther tenures and holding of lands, are bound to homages or particular services on that occasion ; as the family of Dinmocks (mentioned by our Craig, Feud. lib. 3<sup>to</sup>. page 314, and Baker in his Chronicle, page 140, life of Richard 2<sup>d</sup>, and 769 at K. Charles 2<sup>d</sup> coronation,) who, as the King's champion, appears that day on horseback, and throws doun the gauntlet, and appeals any to combat who will question the King's right to the croun. What the coronation of the Quean imports is doubted, if it will make hir regent after his death. A maffie croun of gold is making for hir. Our Commons took up a Jealousie that the Scots croun was to be sent up to Windsor, that he might be also crouned with it. When our Mary was espoused to the French Dauphin, it was demanded, that our matrimoniall croun might be sent over to Paris to croun hir and him *jure mariti* their, but it was refused. This vulgar fancy was as true as the other, that the King was sending doun from Westminster our fatall marble chair, wheirin our kings of old ware crouned at Scoon, and was removed hence by Edward Langshanks, King of England, in our Balioll and Bruce's tyme,

wheirof the prophecy runs, hitherto verified, “*Ni fallat fatum Scotti, quo-cumque locatum, &c.*” The New Help to Discourse, pag. 105, sayes, this marble chair is the ston Jacob sleeped on going to Padanaram.

It was more dubious how his Majesty would behave with the Coronation Oath, oblidging him to maintaine the Reformed religion of the Church of England ; if it would be altogether omitted, or a new generall Oath framed. I know not if, when he touches to cure the kings’ evill, he adhibits a Protestant bischop or a Popish to read the liturgy and prayers used in his brother’s tyme on that occasion, or if he touches without any prayer at all.

Wryts are iſhued out for the meiting of the English Parliament on the 19 of May, and loyall persons in severall places are choisen for members of the House of Commons, tho the phanatique Whig partie ware very busie to influence the elections ; but the King came to have a great interest over the tounes, by annulling ther charters, and naming ther Mairs.

4<sup>to</sup> (2<sup>do</sup>) Martii 1685. His Majeſtie’s indemnity to the Commons of Scotland arrived, and was proclaimed ; (ſee it in my law M.S. at large).

Sir Harbottle Grimſton, master of the Rolls, a very old man, and Speaker of the House of Commons at his late Majeſtie’s returne in 1660, dyes now, and is ſucceeded by [Sir John Churchill.]

P. 80. The Quean Dowager of Denmark, mother to Prince George, our preſent King’s ſon in law, dyes at this tyme.

The Prince of Orange affiures our King, his father in law, that he will not conuerſe with nor receipt the Duke of Monmouth any more ; ſo that he, Argile, Melvill, Stairs, &c., will ſcarce look on themſelves as ſecure any more in Holland. The Marquis de Grana ſent to the Duke of Monmouth and the Lady Wentworth’s lodgings in Bruffells, and com-manded them to remove.

Two of the Peers of England, viz. the Duke of St. Albans and Earle of Carnarvan, had a great debate at the Counſell board, which of them

had the best right to be master of the King's haulks ; the case was argued by ther learned counsell.

Many printed poems came abroad on the King's death, but Flatman and Dryden's appeared to be the best.

Floyd, Bisshop of St. Asaph in Wales, having last summer published a book anent Church Governement in the Ile of Brittain, he, out of emulation, curtaills our Scots historie as fabulous, and will not allow us to have come from Ireland and settled heir till the year 500 after Chrift. In March 1685, came furth Sir George Mackenzie, his Majestie's advocat's printed Answer to this book, full of smart and polite learning, shewing how injurious the Bisshop is, not only to our wholle nation, but to our kings, by this calculation loping of 45 of ther royall ancestors, and seims to refute him with great conviction and satisfaction, if a Scots testimonie be not *nimis amicum* in this case, and so to be suspected. The King's advocat got great helps from others in the compiling this book, and amassing ancient historians and citations.

His Majesty having thought fit to call up our Chancellor and Treasurer to consult who should be his Commissioner to our Parliament, and to give them his private instructions theiranent, they parted on the 7<sup>t</sup> of March, and arrived at London on the 14 March theirefter ; (see this at more length alibi.) Our Archbisshop of St. Andrews having, in the Bisbops' addresse to the King, craved leive to goe up, and getting permission, went away some dayes before our great men to Court.

Sir George Wakeman, phisitian to the late Quean, and who was accused by Titus Oats (who is now keiped in irons till he be tryed the nixt terme, *de quo supra*,) as having undertaken to poison the late King, and escaped by ane Ignoramus jury ; now, on the news of the King's death, he returns openly back to England with his lady and family.

Having red the addresse of the barrifters of the Inner Temple to the present King, they thank him for continueing the uplifting the customes,

and tunnage, and poindage, for 2 reasons ; 1<sup>o</sup>, That without them the necessities of the Government cannot weill be supported. 2<sup>o</sup>, That if the exacting of them ware delayed till the Parliament sate to renew them, ther should, in that intervall, be more export and import then should undersell all already imported, (being custome free) and then would serve the nation for many years, which would, during all that tyme, diminish that branch of the royll revenue ; and that ther kings always keiped possession theirof, and ware never quæstioned by the Parliament but in the rebellious year 1640 ; for its a maxime of the common, *Thesaurus regis est vinculum pacis et bellorum nervi*, a rich king keips his peopple in peace and aw, wheiras a poor prince, &c. can nather prote&t them, nor is feared.

In our gallery of the Abbey their is set up the pictures of our hundred and eleven Kings since Fergus I., 330 before Christ, which make a very  
 P. 81. pretty shew, and the eminenter of them are done *ad longum*. They have  
 guesst at the figure of ther faces before James the I. They got help  
 by thesse pictures that ware used at Charles I's coronation in 1633, wher  
 they all met and saluted him, wishing that as many of ther race might  
 succeed him in the throne as had præceded him.

The King having a particular kindnesse to the Duke of Grafton, on of  
 the late King's naturall sones by Barbara Williers, Dutchesse of Cleveland,  
 because he ordinarily ouned the Duke of York's interest againt Monmouth,  
 he created him governor of Suffolk, which formerly belonged to the Earle  
 of Arlington, his father in law ; and did order North Lord Guilfoord, keiper of  
 the Great Seall, to ishue furth a writ to call him to sit in this Parliament,  
 tho by his age of minority, within 21 years, he was not yet capable in law.

The King ere&t a Court of honor wher all such quæstions and debates  
 may be legally determined, and declares, if any presume by duells, or other  
 wayes, to take reparation of injuries, they shall be punished with the  
 greatest rigor. See Rushworth's Historicall Collections, tome 2 part 3<sup>d</sup>,  
 anno 1639, page 1054, anent such a Court of honor in King Charles the

1<sup>st</sup> tyme voted a greevance, and some decisions theirin ; as also his account of the intended open duell betuuen Ramsay and the Lord Rae, anno 1631, page 112 ; item, anno 1638, betuext Claxton and Lilburne ther tryall by battell, page 788.

In the end of March 1685, some of the discontented people who fled from our Western circuit to Ireland, being now pershued ther to take ane oath, they, to the number of 100, forced some boats and came back to Scotland ; (see of it in my folio law manuscript, at that tyme, page .)

The King having thought fitt to make the Duke of Queansberry, treasurer, to be his Commiffioner to this Parliament, and given him his privy instructions, he honored him and our Chancellor by making them both Privy Councillors in England ; and after a short stay they parted, and arrived at Edinburgh on the 8<sup>t</sup> of April 1685. Tho the Lords Carnwath, Aberdour, Lundoris, &c. ware feiking to carry the purse before him, yet he gave it to his 2<sup>d</sup> sone : it hes £5 sterl. a-day of salary, and he hes £50 sterl. per diem. The King hes sent down some rich furnitor to remain in his palace of the Abbey : Mr. Auchinmooty is keiper of the wardrobe with us. They say the Commiffioner hes power to creat 12 knights ; former ones had but 6.

We heard, that the Maior of the toune of Newcastle under the Line, in Staffordshire, did solemnly put on a bonfire and burn theirin the bill of seelusion, paffed by the late House of Commons, against the preffent King, with the black box anent the late King's being married to the Duke of Monmouth's mother, and some of the votes of the late House of Commons, which smelled of disloyaltie against the late King. On is found guilty of treason in England, for saying the Duke of Monmouth was righteous King.

On the 18 of April, being the vigil before Easter, the King washed 52 poor men's feet, according to the number of the years of his oun age, and he touches severalls for the King's evill. He emits a new severe Pro-

clamation agaist duells, and certifies, whoever intices another, or brings a seconf with him, he will pardon none of them.

On the 23 of Aprill, being St. George's day, the King and Quean ware crouned at Westminster, by the Archbisshop of Canterbury, and took the coronation Oath, and heard Turner, the protestant Bisshop of Elie, preach a sermon before them ; (see the formula of his coronation, inthronization, and inauguration, in print besyde me.) Their ware scattered amongst the peopple about £500 sterlings worth of coronation medalls, made of purpose, with sundry emblems, of ane eagle trying hir young ones by the sun, &c.

P. 82. It is very far short of the splendor of his Brother's coronation in 1660, for it wanted the solemne cavalcade from the Tower through the city (which I believe would have been peaceable eneugh,) to Westminster, with the many triumphall arches by the way, (the description wheirof see in print besyde me, as also in Baker's Chronicle, page 769.) Its like it was to shun expence to himselfe and the nobility, whose fortunes are low. See the ancient forms of the English coronations in the life of Richard the 2<sup>d</sup>, in Hollinshed, and Baker page 140 ; and also anent the challenge given by Dinmock, the King's champion, see Craig, Feudorum libro 3, cap. 1<sup>o</sup> pag. 314. It hes not beene ordinar to crown Queans, unlesse wheir they succeid failzing of male ishue ; yet I find Henry the 8<sup>t</sup> complimented Anna Bullen, his leman, and caused her be crouned. By ane a&t, the King declared that the Quean, on hir coronation day, would release all prisoners for debts within £5 sterlings, by paying them, wheirby 80 ware liberat in Newgate. Shee was not crouned with the imperiall croun of the kingdome of England, but by a golden croun, made of purpose, worth 300,000 lb. sterlings ; the jewells shee had on hir ware reckoned worth a million, which made her shine like ane angell. All the peeresses ware richly attired, and with ther coronets on ther heads. The King intended to have published a pardon, (as is usuall at coronations,) but he forboor it till he should doe it in Parliament. See the forme of our Scots corona-

tion, how it was performed at Scoon in 1650 to King Charles the 2<sup>d</sup>, with Mr. Rot. Douglasse his sermon, all in print besyde me. Item, King Charles I. coronation at Halirudhouse in 1633, in Rushworth's Collections at that year. They say, our present croun is not the ancient croun of Scotland, but was caften and formed of new by King James the 5<sup>t</sup>, and that, at our coronation in Scotland, (when our present King's affairs will allow him to come and receave our croun,) he intends to revive our ancient order of the Knights of St. Andrews or the Thristle, which hes sleeped in desuetude fince the faid K. James the 5<sup>t</sup>'s death: see it mentioned in Monsieur d'Avitie's World, tome 1, page 331, et seq.

The English coronation oath is not verie speciall as to the Protestant or Popish religion, but runs in somewhat general termes. Of the antiquity of coronation oaths, see remarks made by me alibi, from J. Taylor's Doctor Dubitantium, and others. Ther was above 1000 disches of meat at the feast, which followed the coronation, and many curious fyreworks; and in many tounes of England the magistrats used a solemnitie and publick expreßions of ther joy that day. At the coronation, the Te Deum and Veni Creator ware fung; but the narrative does not tell whither thir anthems ware fung in English or Latin, after the popish manner. Among other verses made on this coronation, (to see which shew many crowded from France and Flanders,) Elcana Setle, once the Whigs' poet, now fallen of, made a heroick poem, wher he brings in Shaftesbury, Essex, and Russell, (whom he calls G. Burnet's reforming pupill,) gnashing ther teeth and shaking ther snakes in hell, at the news of the Duke of York's coronation as King, and calls Monmouth,—that skulking, litle, wou'd-be-King.

Eodem 23 Aprilis 1685, did our Scots Parliament begin and ryde; but because I have sequestrat a 4to. MS. apart for the passages and occurrents of this our Parliament, (wheir they may be red at great lenth,) with a litle abbreviat of them in my folio law MS. in April 1685, theirfoir, to avoid repetitions, I shall forbear to say anything more heir.

P. 83. A rumor coming from Holland, that some ships were preparing their with powder and armes to land in Scotland ;—this put our statmen in an apprehension from Argile, and to put the country in a posture of defence. See it in my law MS. page ; see infra more of this, p. 85.

John Inglis, captain of a troupe of dragoons, lying in garrison at Newmills in the West, a house belonging to the Earle of Loudon, having taken some of these phanatiques prisoners, and tho he had power to execute them, yet keeping them alive, some of ther desperat comrades breaks in upon the garrison, and rescues them to ther great shame ; for which Inglis was degraded, and his place was given to Mr. George Winrahame, a bigot papist.

In April 1685, the Doge of Genoa and 4 of the Senators arrive at Paris, to complement that King, and crave him pardon for assisting Spain against him. (See of it supra pages 65 and 74, and the next page.) His Ambassador also gives in a memorall to the Spanish King ; bearing, that he hears that the Duke of Bavaria is going to marry the Archduchesse, one of the Emperor's daughters ; and that his Catholique Majesty of Spain resolves to bestow the Spanish Netherlands on Bavaria, at least to make him Governor theriof ; which, if he doe, he will esteem it a contravention of the 20 years' truce made betwixt them, seing the state of the Netherlands has not to be innovated during that tyme, especially by transferring them *in potentiorum adversarium* ; and that he would esteem it an invasion on his son, the Dauphin's right of succession to the Netherlands by his mother, and of his grandchild the Duke of Burgundie's right, in case the King of Spain should happen to deceasfe without children ; and therefor he would resent it to that degree, that tho he would keip the truce in Flanders, yet he would carry the war into the bosom of Spain. The Spanish King having advised with his counsell, returned this answer, that what he heard was news to him, and he resolved firmly to keip the peace. The French Ambassador took it for a tacite allowance, and concession of the Dauphin's right, that

the Spaniard took no particular notice theirof in his answer, which is catching at shadows. The wholle 17 Provinces, if in one hands, as they ware in the tyme of the old Dukes of Burgundie, wold make a great kingdome, if the Emperor bestowed the tittle of it on Bavaria, or any other.

The Princes De Conti and Roche-sur-Jon, and sundry other of their noblesse, from a principle of gallantry, contrare to ther King's prohibition, have stollen out of France, and gone to Hungarie, to affist the Emperor againts the Turk.

The dyet of the Estates in Poland meit at this tyme, and are divided. Some moved for ane act of exclufion of any from their croun who marries with a forrain prince, because it gives other kingdomes a great intereft and influence among them ; as they find by ther present king Sobietzkies being married to a French ladie.

A Scots minister called Mr. Alexander Taylor, [Tyler] curat at Kinetles, in Angus, hes printed at this tyme a large poem in English, of all the memorable acts of John Sobietzki, King of Poland, and particularly his releiving the siege of Vienna, supra, in 1683 ; with a Latin præface to him, and Prince Alexander, his sone.

In Aprill 1685, a shoemaker's wife in the toun of Selkirk, in the south of Scotland, brings furth a monstorous child with 2 heads, 2 hands, 2 feminine privityes, and under that had the shape of any other child :—see Buchanan, in our chronicle, anent the extraordinar monster born in King James the 4<sup>th</sup> tyme, which lived till it was 28 years old ; likewayes remembered by Philip Camerarius in his *Meditationes Historicae*, or *Horæ Subcīsīvæ, tomo. , cap. , page .*

In Aprill 1685, the Secretary Lundy, and Tarbet Clerk Register, ware p. 84. created Vicounts by the King ; (of which see more alibi, in my folio law manuscript.)

16 Aprilis 1685. Our late King's statue was erected on horseback in the Parliament Closse at Edinburgh ; (see notes on it, in my folio law manuscript, at that day.)

The Dutch embassadors who ware sent over to England, to congratulat the King's arriveall at the croun, when theyr ship came by the fort at Gravesend they streek their sail, but after they had passed they put it up again; wheirat the Governor of the fort being offended, he shot at them, that they might lower both sail and flag; this they took as an affront and indignity, and would not come up the river till they had acquainted ther masters the Stats theirwith. It was alledged, within the King's river they could not carry ther flag. However, being to treat about the affair of Bantam, (wher the English suspe&ted the Dutch had stirred up the native Indians to dispossesse them,) this difference was composed.

When the Duke of Genoa, &c. (de quo supra, pag. praeced.) ware ready to make ther appearance, and get audience, the King of France had notice from letters intercepted by the Duke D'Estrees, that ware directed thus, To the Most Serene Doeg and Senate of Genoa; wheirat he stromed, and said, If they had 2 Dukes, on at Genoa, and another at Paris, he would have both come and submit to him. The Duke answere&rd, that, by the constitution of ther Governement, when the Duke was absent, the power of the Republick devolved on the Senate, who choisid a præses. He being at last appeased by the mediation of the Pope's nuncio, and others, they ware admitted, and made a very splendid appearance, the Duke having 5 coaches of his oun, and being in a crimson velvet goun, and was looked on as a man of fence and good parts. The French King having satissified his ambitious humor, giftid each of them a gold chain and some tapestrie.

The terme being set doun at London after Easter, Titus Oats is tryed for perjurie before the Lord Cheiff Justice, Sir George Jeffries, who is now made by the King a Lord Baron of Parliament; (see a litle of this supra, page 73.) His tryall began on the 8<sup>t</sup> of May 1685. Ther was 47 witnessses led against him, wheirof only ten ware Protestants; they

swore, that from August 1677, till July 1678, Titus Oats was all that tyme at St. Omers in Flanders, and they saw him their, and consequently he had perjured himselfe, and falsely taken away the lives of Ireland, jesuite, Grove, Pickering, and many others, by swearing he was present with them at London thesse moneths, and at their consults, wher they devised the death of the late King, and the destruction of our religion, and carried them from chamber to chamber to get ther hands and subsciptions theirto ; as also, they bound another perjurie on him. He subpœna'd fundrie witnesses, members of the laft Parliament, to prove that both the Houses of Peers and Commons had found the said Popish Plot proven, and that it depended not singlie on his evidence, but many others had concurred with him in ther depofitions. Yet this proeedor with Oats (whatever willian he is) feimed strange to some ; for, 1<sup>mo</sup>, That ther was such a plot as he discovered is evident beyond all contradiction, (tho some of his circumstances might be added,) by Coleman's letters, Edmondbury Godfree's murder, the notes of Parliament, the late English Chancelor's confession, &c. ; and that being never yet disproved, why the author of the discovery P. 85. should be thus triumphed over by the Papists. 2<sup>do</sup>, 37 of the witnesses are Papists, his inveterat mortall enemies. 3<sup>to</sup>, How could they positively depone, that, for the space of a year, he was constantly at St. Omers, and never in London, for the diſtance betuixt the 2 is not ſo great, but in a very few days, yea, in on week, he might be in both.

His ſentence, on the 16 of May, was, firſt, to be degraded from his doctorall and preiftly office and veſtments ; 2<sup>do</sup>, to be 2 ſeverall days ſcoured ; 3<sup>to</sup>, to ſtand 3 ſeverall dayes on the pillory ; 4<sup>to</sup>, to pay 1,000 merks ſterling fyne for each perjurie ; 5<sup>to</sup>, to ſuffer perpetuall imprisonment ; 6<sup>to</sup>, to be pillorized annually 3 tymes a year. This great ſeverity was execute on him because ther law does not puniſh perjurie with death, (tho this ignominious ſentence to ane ingenuous ſpirit is worse then hanging;) of old it was capital ; then, the cutting the tongue ; at laſt, they mitigated it to whip-

ping and pillory. This rigor was trysted with the fitting doun of the Parliament of England. He boor this with ane impudent courage, and mocked the court, and boldly told, he was suffering all this for the truth, ouning all he said was true. Our printed relations boor, that the common peopple ware furiously enraged against him, calling him 100 bloody rogues and villians; which, if reall, is a true character of that beast the populace, for within thesse few years they ware crying him with Hosanna's as the great savior and preserver of the nation; now the mobilee cryes Crucify, &c. However, it appears all the vulgar did not take pleasure in his suffering, for some of them brook the pillorie wheir he had stood; for which severalls ware apprehended and punished. It was alledged, the hangman favored him in the 1<sup>st</sup> whipping. His fister gave in a petition to the Court of King's Bench, to remit the 2d scourging; but the answer shew got was, he deserved to be hanged, and he should have no favor. (Vide infra, page 104, ane act against perjurie, and Dangerfield's case.)

On the 15 May 1685, we had ane account from Orknay, by Mr. Murdoch Mackeinzie, bischop ther, and others, that the late Earle of Argile had touched their with 3 ships, (de quo supra, page 83;) and having sent Mr. William Spence, who lately was tortured by the Privy Counsell, and on Mr. Blacketer, ane outed minister's sone, on land to try the pulse of the peopple, and they being apprehended and brought in prisoners to the Castle of Kirkwall, he shott of a long boat with 50 men, and they seized on 7 persons, 3 gentlemen of the name of Grahame, and brought them prisoners to his ships. Then he wrote a letter to the Bischop craving back his two men, otherwayes whatever usage they met with, the hostages he had tane by way of repriseall should meit with the same. But the Bischop refused; wheiron, he took a vessell lying ther with meall and money, and sayled about the North Iles; and within a few dayes we heard he was come towards his oun country, in thesse Western Seas, betwen Scotland and Ireland, and had first landed at the Castle of Dunstafnage, (wher our marble

chair long stood;) then he entred Kintyre, and Campbeltoun, and the Ile of Bute, and plundered meall and cattell and all that he judged for his use. It was reported, he had about 500 weill appointed men with him in armes, and about 20,000 stand of armes for horfe and foot, for he expected many both in England and Scotland would run in and joyne with him; and he emitted 2 Proclamations and Declarations; on, a very long dedu&tion of all the grievances thir nations hes groaned under thesse 20 years, with a specious pretence of religion, now made threadbare by all rebels. The shorter on shews, he is only come to recover his estate unjustly tane from him, and to vindicat them from the usurpation and tyranny of the present King; and in the long on he insinuates, his brother the late King was dispatched P. 86. to the other world by unlawfull means, and that he is restored to his estate by the righteous air, meaning Monmouth, and therfor requires all his waſſalls to come in to his affiance. Campbell of Auchinbreek (who holds his lands to be Lieutenant Generall to Argile, but this will not allow him to help Argile againſt his King,) came in to him with 200 men; for which a ſummons of treason is raifed againſt him in order to his forſaultor. Argile, minding the former animosities and discontents in the country, thought to have found us all alike combustible tinder, that he had no more adoe then to hold the match to us, and we would all blow up in a rebellion: but the tymes are altered, and the peeple are ſcalded ſo ſeverely with the former infurre&tions, that they are frightened to adventure on a new on. The Privy Counſell, tho they diſpifed this invafion, yet by proclamations they called furth the wholle heritors of Scotland, as weell above 100 lb. Scots of valued year as below it, with the militia and ſtanding forces, which will make a great army, upwards of 60,000 men; but are to be diſvided in 3 camps, on at Selkirk with Claverhouſe, to ſecure againſt any infurre&tion in the borders of England, another at Stirling for the Hylanders, and a 3d at Glafgow. The Marquis of Atholl was commanded away to Innerarie to affiſt Ballachan, who had 500 men theirabouts, and the Duke of Gordon was

to joyne him with his men ; and by a speciall commiffion from the King, the Earle of Dumbarton, brother to Duke Hamilton, a ftrict papift, was employed (without taking the Teft,) to command his cheiff with Dalzeel by a cumulative power ; for in a civill combuftion, all hands may be fett a work to extinguifh the fyre, whither Papift or Protestant, tho it armes our old ennemis the Popiſh faction. This hoft and expedition puts the country to a waſt expence, more then 2 year's cefe, and all againſt ane inconfiderable ennemy ; but our ſtateſmen's fear was not ſo much, what Argile could doe himſelfe, (tho many country peopple flocked into him,) as the apprehenſion of the diſcontented party in England ſhould riſe with him under the Duke of Monmouth and Lord Gray, to his affiſtance. But the English Parliament complying with the King's demands, and the accord betuixt them, feimed to cut of much of his hope this way, to his no ſmall diſappointment. It was muſh debated, who had contributed to the oultreiking Argile in this deſperate interprize ; for the 30,000 lb. ſterling he had been long ſeiking from England, and which, by the diſcovery of the plot ther in June 1683, ceaſed, would not have done it. Some ſuſpected the Count D'Avaux, the French ambaffador at the Hague, whosſe master finds this King of a harder metall then his brother, and is willing (tho they be both of on religion,) to cut him out work at home. Others blamed the Eaſt India Companies in Amſterdam, because of our King's demands for Bantam. Some named the Duke of Brandenburg. Whoever, ere any rationall men would truſt him with ſo much money, armes, and ammuſtione, and before ſouldiers would follow him, he behoooved to lay a probable plan of his deſigne, and convince them it was feasible, elſe they would not part with ther money, nor venture ther lives and fortunes ; and Argile had alwayes the reputation of fence and reaſon : and if the Whigs at Bothuel-bridge in 1679, had got ſuſh a commander as he, it's like the rebeſlion had been more durable and ſanguinarie. But now the country is ſo frightened and wearied, that it is no wonder they have no propensity to

join with him ; and thesse wild phanatiques in Galloway do even stile rail on him, as on who had brok ther Covenant and joyned with the late King and his governors to opprefse them, and would have him first giving signes of his repentance, ere they concur with him ; but the truth is, they are inclinable eneugh to run in to him, but the forces lying amongst them stops and intercepts ther passage. Argile did indeid send the fierie croffe (which is a long sticke fyred at the end, set upright in some hy conspicioous place, to rafe the country according to ther custome,) throw his hylands ; but ther came not in above 2000 men to him, and many of them joyned throw fear. His lady, and my Lord Neill his brother, and his sone James, ware secured prisoners in Edinburgh, and they ware threatned, that as he used the Orkney prisoners, so should they be used : he had with him 2 of P. 87. his sones, Charles and John. They report a pleasant story of on of the Orknay captives, called James Stewart ; that he told Argile,—‘ I know you have a responce that you should have in your company James Stewart, of the blood royall, which you thought would be James Duke of York, the present King ; but your vizard hes deceaved you, for I am of that name, and deschended of the Earle of Orknay, who was King James the 5<sup>th</sup>. bas-tard sone.’ Spenee and Blackater ware brought to Edinburgh from Orknay by sea, on the 6<sup>t</sup> of June.

At the first rumor of Argile’s coming, it was generally concluded to be but a politique stratagem of our statmen, made to give a cullor to rafe our forces at the same nick of tyme with the doun fitting of the English Parliament ; but when it proved reall, our posture of readinesse was thought weill trysted to overaw the English Parliament. Argile’s first cryme was look’t on by all as a very slender ground of forfaulter ; but his conspiracy and rebellion since hath expounded what he meant by his Explanation of the Test too weill. And this invasion of his hes caused the pannells before the Parliament, especially the Cesnocks, to be the more violently infisted against, and stopped the mouths

of such as otherwayes would have ouned them. Captain Mackeinzie of Siddy, having notice of a rendevouz Mr. Charles Campbell was making in Kintyre, he laid himselfe in ambuscade, but being discovered, he only killed 2 or 3 of them, and took as many prisoners.

About the 4<sup>t</sup> of June, Argile hearing some of the King's men of war had come to the West Seas, over against Air, he drew in his ships, to evite drouning or burning, into Iland Greg, a narrow creik in Cowell, near Lochfin, and fortified it, so that it would be easie with his cannon to stop all accesse. But the news of this coming to Edinburgh, the ftafsmen thought he had deserted the sea, and now would stody to surprize some strenth at land, as Dumbarton or Stirling; wheiron the militia of Edinburgh was instantly commanded to march to Stirling, tho it was Sunday. Sir John Cochrane with some of his men landed at Greinock, and being charged by Houseton, Carseburn and his nephew, my Lord Cochrane, and the gentry of that country, he retired, and they shot ther pistolls after him; but he discharging a canon amongst them, they fled in great haft and disorder, for it is not to be expected that our heritors and militia (the moft part of whom are dropping away already, and refuse to swear to ther cullors,) will engadge in any action farder then as a reserve, and to make a show, for the brunt of the battle moft ly on the Hylanders and the standing forces; but they being few, not 3000 men, and dispersed, cannot be in all places, nor weill spared from the pofts they are in, which, if they ware evacuated, the discontented peopple ther might rise in armes upon ther back. On of Argile's ships chased up a yaught of the King's (for they cannot indure shot) up Clyde, till it got shelter under Dumbarton Castle, and yet it was in such disorder it had few or none of its guns mounted and little ammunition, of which and of armes ther was scarcitie eneugh; but the King, in the Tygar frigate, with West and Bourn the two English witnesses, hath sent doune a great quantity of pouder and armes to Edinburgh Castle, to the value of 6000 lb. Sterling. We had likewayes ane expresse

from England bearing, that the King's ships had taken at Harpoole, in the West of England, a ship going to joyne with Argile, with 5000 stand of mo armes in it, (but Argile had already mo armes then he had men to give them to, unlesse they be designed for some insurreiction in Wales, or some other place in the West of England, wher they are much addicted to Monmouth, and disaffected to this King,) and some Dutch officers. This may give great light (if true) to discover who furnishes this rebellion abroad. Some malitiously said, it was on of the King's oun ships that was taken, and he only gave it out to be a ship going to the rebels, that he might discourage any insurrection in England, (seing the King's good succeſſe,) or any mo to joyne with Argile. Ther was a warrand of our Privie Counſell, that ſuch a number of the militia ſhould be picked out as P. 88. ware the prettiest men, and beſt armed, and to take the 20 dayes pay or loan money from the reſt and diſmiffle and ſend them home bare. But Erroll's men at Aberdein made ane uproar and mutinie, and ſaid, they had hearts to fight as weill as they that ware choiſen, and would nather returne nor quite ther pay; and being commanded by Boyne to lay doun ther armes, they refiſted, and diſcharged ther fuſees and killed ſome of ther neihbours. Theſſe northern ſhires come hither ſo willingly, in hope of robbing and ſpoiling; but our ſouthern militia men hardly waited on this reforme, but many of them threw away ther armes and ran home, and they will never be got obedient to discipline, and orderly, till ſome of them be hanged, for fieng from ther culloſs, and be a terror and example to others. By a Proclamation the exportation of oats and meall was diſcharged with us, that our armie might be the better ſerved; yet Kelburne, and the other comiſſars of the army, did cruelly exact 12 and 13 lb. for the boll of meall. (See more of Argile's affair infra, pag. 91.)

In May 1685, dyed with us the Earle of Hadington, a worthy gentleman of much hopes, to the greiff of all honest men. The Prince Palatine of the Rhyne dyed also at this tyme, a young man, our King James's great

grandchild by his daughter. They say, the Duke of Newbrugh, as neareſt agnat, (but is a papift, which is ſad in a protestant countrie,) takes poſſeſſion of his digniſty and eſtate; but his firſt, the Dutcheſſe of Orleans, expeſts the moveables. Princeſſe Anne of Denmark, our King's 2d daughter, is a litle after this brought to bed of a daughter, baptiſzed Mary after the Quean's name.

On the 19 of May 1685, fate dounē the English Parliament. In prepaſation theierto, the King ſent away to Scotland any popiſh officers he had about him, (leift the English Parliament ſhould take offence at ther being employed in England,) as the Earle of Dumbarton, Major George Winrame, Captain Maxuell, on Barclay, &c.; and they got all places heir, tho our Test be ſtricter againſt them than the English. Then the King created 8 or 9 peers; as Sir George Jeffries, Cheiſſ-juſtice, (of obſcure birth, but bold,) Mr. Jermayns, &c. are made Lord Barons; ſome ſaid, he feared a faction againſt him in the Houſe of Peers, and this was to poife and ballance them. The former Kings of England, the very firſt day of the dounē ſitting of their Parliaments, uſed to declare in a Speach by themſelves and ther Chancelor, the cauſes of his conveining them; the King did not follow this method, but by Guildford, Lord Keeper, defired the Houſe of Commons to returne and take the accuſtomed Parliament oaths, viz. ther negative Test againſt tranſuſtantiation, &c., and to choiſe a Speaker, and then he would call them and impart unto them his mind. And accordingly, they having been 2 dayes in taking the oaths and choiſing a Speaker, (viz. Sir John Trevor, whom the King had recommended to them, a lawyer, and who had formerly been on the country ſide, but was now converted,) they preſented him to his Maſteſty on the 22<sup>d</sup> of May, who approved of ther nomination, and he modeſtly declined it; wheron he craved of his Maſteſty the 3 uſual preſumaries; 1<sup>o</sup>, That the Houſe of Commons might haue free acceſſe to his Maſteſtie when ther affairs required. 5<sup>do</sup>, That what ſhould be uttered in the Houſe might

not be misinterpreted, but the freedome of speach conſtrued to the beſt and moſt charitable ſenſe. <sup>3<sup>to</sup>, That ther perſons, ſervants, and goods might be free from arreifts, and legall diſtrefſe during the Parliament; all which his Maſteſty, according to cuſtome, granted. Then the King de- liuſered to both Houſes his Speach, we have printed; wheirin he diſfers muſh from his brother's ſtyle, and ſigniſies his pleaſure in very peremptorie termes, that it will not be ther beſt way to feed him from tyme to tyme with ſupplies, for that will not praevail with him to gather them the oftner P. 89. together; then he acquaints them with Argile's rebellion in Scotland, and hopes they will give him a ſuitaſle ſupply againſt the ſame. And they having on the 23 of May ſignified to his Maſteſty, that by ane a&t they would fettle all the revenue of tonnage and poundage on goods ex- ported and imported, (nota, tho this expired with his brother, yet, ſupra page 77, we ſee he exacted it ſtill,) with the impoſition and exciſe on bear and ale, given to his late Maſteſty for his life, that it ſhould be alſo due and payable to his preſent Maſteſty during his lifetyme, for they are not fo raſh in annexing it to the croun, as we, to be a good example, did with our exciſe; and that they would ſtand by him with ther liues and fortunes againſt Argile and all other conſpirators; he, (without giving them thanks, as his brother uſed to doe,) with a very dry complement, tells them, they could doe no leſſe in conſulting ther oune ſecurity. And in his Speach of the 30 of May, he craves a farther ſupply; and to flatter the genius of the nation, he tells them in a ſtyle wain enough, that he hopes to raife the reputation of England beyond what any of his praede- ceſſors; and what they ſhall give him, he promises to imploу to no other uſe then what it is given him for. Wheirupon the Houſe of Commons vote him a farther ſupply upon wines, vinegar, tobacco, and ſugar, for carrieng on the Scots war, and his other extraordinar expences of the navy, ordnance, &c. Some aſcrybed this complyance of the Houſe of Commons with the King more to fear then love, and that he took the</sup>

true way of treating Englishmen, in King Henry the 8<sup>th</sup> minatory forme, that as he would invade no man's properties, so he would quite none of his oun rights and prærogatives; and that he began with them as he intended to end: for the old distich holds true, *Anglica gens, optima flens, peffima ridens*; with too much prosperity they turne unsupportably insolent, so that it is not safe to flatter or cajole them; for sundry of the Members of this Houfe of Commons are disaffected, but are borne doune by the major part, who syde with the King, the elections in counties and burrows being so manadged, that by the limitations of the new charters gevin them, and excommunications and other methods used to debar such as they doubted, they got many of them to the King's oun mind; which was a point his late brother could never of late compasse, tho he had as much of his peopple's love as the present King hes, only he was not so much feared by them. It being moved by some of the members of the Lower-house, that a discriminating mark might be set on such of them as had been for passing the Bill of Seclusion of his present Majesty when Duke of York, the Earle of Midleton, who sits in that house as representing the county [town] of [Winchelsea], signified, that he had his Majesties warrand to tell them he would not suffer any notice to be taken of that affair, for he had both forgiven and forgotten what injuries ware done him when Duke of York, and hoped they would doe nothing to make him remember them, which was very generous; but thesse votes are to be expunged out of the Journals of the house. On motioned, that ane Addresse should be made to his Majesty, for securing the Protestant religion, and to put the A&ts in execution against Popish dissenters and others: which being voted, it carried in the negative, that no such Addresse nor A&t be made; but that they rely and acquiesce upon his Majesties royall word and solemne promise for ther religion, dearer to them then ther lives; wheiron they are more complaisant and tame then our Parliament is yet, for we have past ane A&t for religion, such as it is.

The King has advanced on Collonell Talbot, (a papift, against whom the former Parliaments made many addresses to have him removed from his Majesty,) to be ane Irish Earle ; but withall, he has made the present Duke of Northfolk, tho a protestant, on of the Knights of the Garter.

It was observed, that the Marquis of Worcester, eldest sone of the Duke of Beaufort, was elected by 4 severall burrows : In the Upper-house on may vote by his proxie, so that a lord having 5 proxies from absent peers, he hath ther 5 votes besyde his oun; but in the Lower-houſe, it was thought ther could be no voting by proxies ; but being chosen for mo places, he behooved to elect which of them he would represent, (which certainly he behoved to doe with us, tho we P. 90. allowed it to the Lords spirituall and temporall, by the 7<sup>t</sup> a&t in 1617 ; but reschinded by the 20 a&t in 1640,) and he could not vote for all theſſe 4 places who had chosen him. I find 2 of our firname members of this Parliament, the on Sir John Lauder of Loutherhall, for Westermuirland, the other Sir John Louther of Whytehaven, for Cumberland.

Argile's invasion and infurre&ion having occasioned Scotland to be all in arms and a posture of defence, at the very tyme of the doun fitting of the English Parliament, with the severity used (supra pag. 84,) against Titus Oats, contributed very much to induce the English Parliament to a compliance with the King, which disappointed Argile's defigne exceedingly ;— yet it feims he promised himselfe [little] from the Commons house, as it was elected and constitute ; for in his large Declaration he exclaims against them as packit, and caballed, and elected by fraud and injustice. Some expected that the English Parliament should have iſhued out a commiſſion of array, that the King might raise ane army for ſecuring England, whille ther neihbour's houſe is in a flame, *Tunc tua res agitur, paries cum proximus ardet* ; for the King, by ther law, cannot preſſe all betuixt 60 and 16, to riſe in defence of ther country, with 40 dayes proviſion, as he can doe in Scotland. (See Rushworth and other English wryters of theſſe com-

miffions of array.) If the King had ane army up, it's like he would not disband it so easilly as his brother did his. In choifing ther members of the House of Commons, they are not tyed up (as we are) to elect only such as have ane interest in the shire or burrow which they are to represent; but with them, on who hes no land in the county, and is not yet so much as ane honorarie burgesse, may be choisen to fit in Parliament for them, and commonly they employ lawyers; but a bill must be red three Parliament dayes ere it can passe, in which pra&tise they have a great advantage of our præcipitation in hurrying it instantly throw.

Some bills ware given in to the House of Commons, craving leive to cut of ane intayll of lands, and to sell for paying debts or to contract debts; some ware granted, others of thame refused. Licence is craved for the Earle of Offory, to give him a power to grant a joyniture to his Lady. A bill moved, that feing St. Martin's in the feilds in London, is too spacious a parish, that the parishioners, upon ther oun charges, be allowed to erect a new parochiall church their, to be called St. James's. Item, another called St. Anne's Church. Item, ane a&t to reedifie St. Paull's steeple and spire. Ane a&t is past for the exportation of leather, and the shoemaker's petition against it was rejected. A bill sent doun from the House of Peers to the Commons, to reverse the forfaultor and attainder of the Vicount Stafford for the Popish plot, past in December 1680, supra; and to restore his aires. 2<sup>do</sup>, That ane a&t be made, hindring minors to marry without ther parent's consent, and even restraining them for some competent space after ther father's death. 3<sup>do</sup>, Ane a&t allowing his Majestie to require carriages (Angaria) when he travells or marches throw the countrie, or his navies by sea, and his armies by land. A committee is named to inspect the expired laws, and to consider how far they deserve to be renewed. Sir John Talbot brings in a list of 21 of them. A motion is brought in, that beside the Court of aequity and conscience, for curbing the rigor of the common law, keipt at Westminster, (which was so crowded as could not dispatch all,)

3 other might be erected, viz. at Southwark, Saint Martin's, and the Liberties of the Tower. For incouradging the woolen manufacture, as they had formerly enacted, that all should be buried and wrapped in woolen; so now they ordaine, that all gentleweemen, shall, at leaft for fix months each year, wear clothes of woolen, and all coaches be lined theirwith, and that all Scots' pedlars, called Haukers, be discharged; our late prohibition of wearing wooll is on another politique, *de quo alibi*; and that all weemen below the degree of gentleweemen, be ordained to wear hats of woollen. (See more of the English Parliament's actings, *infra* page 103.)

In the end of May 1685, dyed the Marquis De Grana, Governor of the P. 91. Spanish Netherlands. They speak of the Duke D'Uzeda to succeid him; but the dormant commiffion being broke open, it was found that Dom Francisco D'Aguirto, the Marquis del Pico de Velasco, maistre-de-camp generall, governe for the interim, till the King of Spain thought upon another.

At this tyme, the senate and republick of Venice raised waft summes of money from fundry roturier and plebeian families, who ware become very rich, such as Seignieur Sandi, &c., and desired to be incorporat and immatriculat unto the number and rank of the noble Venetians and Senatorian order; which was granted some of them on the payment of one hundred thousand ducats for each person.

The Despote, (Prince,) of Moldavia, called the Hospadar Duca, taken the laft summer by the Poles, and who offered a waft summe, 100,000 crouns, for his ransom, he dyes at this tyme at Leopold ther prisoner; so they lost the money.

Supra pag. 85 et seq., we have given some account of Argile's rebellion; to bring it now to its period we shall heir joyne it all togither. Argile finding his party was loosing their courage, having left ther ships, (yet Julius Caesar, and W<sup>m</sup>. of Normandie called the Conqueror, when they invaded England, they brunt ther ships to præclud and cut of all

hopes from ther men of flying that way,) and finding he did not performe his wain promises to them, that all the country would rise with him as so much combustible tinder, and that he would get 20,000 men to give his 20,000 stand of armes to, he now feids them with the milk of a letter he fayes he had receaved from the Duke of Monmouth, that he was in armes in England, and, to infuse spirits in them, he added, he was victorious; and this he infinuats in his letter, wherby he invites Maccallafter of Louip to come in to him. (See it in print.) Our King having complained to the Dutch Embassador that Argile was furnished by ther connivence, the Hollanders, to please him, offered to emit ane edi&t, discharging the exportation of armes for 3 moneths, that no more affistance might goe to Argile; and the Prince of Orange, on a letter from the King of Brittain his father in law, orders the 3 Scots regiments lying their to be immediatly shipp'd for Scotland, to aide us againts Argile; but when they ware at sea, Argile being taken, the P. Counsell employed on Captain Bird in his ship, to goe and acquaint them that they might returne; and he did so, finding them at St. Ebbe's head. The late King, in regard of the mistakes between him and his Parliaments, had left the brazen (wooden) walls of England, ther shipp'g, in a very bad case.

It was thought very od, that in the Duke of Gordon's march to Innerairey, on night, his horses and thesse of all the heritors with him, did take such a madnesse as some to break ther necks, others to wound themselves, many ran 20 miles, fundrie ware never got again, and no cause can be given for it.

The King's forces could not agree among themselves, for Captain J. M<sup>c</sup>Keinzie, sone to the Bishop of Orknay, having been designed to be adjutant to the Provest of Edinburgh, as Collonell of the militia regiment of that toun, Lieutenant Collonell Adam Rae taking this as a refle&tion on his military skill, offered to supply the Provest's part, which C. M<sup>c</sup>Keinzie resented, and was made to train the Fyffe militia regiment;

and the 2 regiments meiting at Stirling, and striving who should march on the right hand, M<sup>c</sup>Keinzie did batton Rae with a kaine, on the head of the 2 regiments, and Rae drawing, he retired into the mids of his oun picks; but Generall Dalzeill coming upon them, kepted the 2 regiments from ingadging, yet put C. M<sup>c</sup>Keinzie so far in the wrong, that he affirmed, he deserved deprivation and a counsell of war.

The 2<sup>d</sup> accident was more lamentabill, because more sanguinary. Sir Ewen Camron of Lochyell's men, throw mistake in not understanding the word, being Irishes, at leist Hylandmen, fall upon a party of the Perth-shyre gentlemen, to the number of 12, commanded by John Grame, postmafter, and, under pretence of being Argyle's men, (whither the P. 92. mistake was innocent or wilful, to get their spoill,) they kill 5 of them, viz. Pearson of Kippencrosse, Paull Dog of Ballingrue, Linton of Pittendreich, Naper of Balquahaple, and . This was a very sad and unwarrantable mistake, and deserved a severe rebuke.

Then the news came, that, on the 17th of June 1685, the King's ships had ventured in upon Argile's ships, and taken them with all his canon, arms, and ammunition, and the fort of Ellangreig, with his standart, which was sent away immediately to the King at London, its motto was engraven on it, 'For God and Religion against Poperie, Tyranny, Arbitrary Governement, and Eraftianisme.' Argile finding he could keep his ships no longer, he resolved to make them useleffe, and doe all the mischeif imaginable with them; he considered how many howers it would take ere the King's ships, with the help of the tyde and wind, could reach his, accordingly, he plants a train of pouder, and contrives it so, by the lenth of the match which was to burne ere it came to the train, that the match should last ay till the King's ships had buirded them, and then the train should fyre, and blow them all up. This was a mischievous project, and had near taken effect, but the few marinells he had left aboard tyed, discovered it; and it was so near, that the match was within

a few inches of the train and wholle magazin of pouder, when the Captain of the King's ship came aboard, who instantly extinguished that match; but, leift that should only be a blind to beguile them, and ther might be other secret trains laid in the ship, he very prudently caused cover the wholle pouder with water, so it would not kindle. Then he seized on all the arms, and other provisions left. Being thus deprived of his shipes, it was wondred how he subsisted so long; but this may be ascribed to the unacceſſible ſtarting holes this Hyland country affords, for Heylin, in his Cosmography, in the Description of Scotland, page , tells, from a Speach of King James the 6<sup>t</sup> to the Parliament of England in 1607, that our old Kings ware behoden to the bogs, and other faſtnesses of that country about Argile and Dunſtafnage, whither they commonly fled, and drove all the cattell before them, ſo that the English, being deſtitute of all neceſſars, ware forced to give over the conqueſt. Its hoped this rebellion in both his kingdomes, in the beginning of his reigne, will make the King more attentive and moderate in his governement, and not to follow any counſell to alter our religion; for, if our phanatiques find themſelves obliſed in conſcience to fight againſt Epifcopacy, *multo magis* will they riſe againſt the introduc&ion of Poperie. On the 19<sup>t</sup> of June, in the morning, we got the news at Edinburgh, that Argile was apprehended running away from his men, and leiving them; not dying upon ther hed as Catiline (*teſte Sallyſtio*) did; as alſo, his printer is tane, who had printed his long and ſhort declarations, and many of the common peopple. Some ſaid that the King complained, that, if his ſtaſtmen had allowed and adviſed him to have made his Indemnity *in regiminiſ initio* larger, theſſe poor peopple would not have ſo flockt in to him; and ther diſperſion will make a new fleſce of guilt on the reſettters, wheirby many innocent heritors ſhall again be brought under the ſtaſtmens reverencē. That morning the P. 93. news of Argile's taking came to Edinburgh, the Colledge of Juſtice, by order of the Privy Counſell, ware to be modelled in a troupe, but the news

made it neidlesse. The night before Argile's taking, and the dispersion of his forces, he had a Counsell of war, wher he proposed, first, that, seeing the King's forces under the command of the Earle of Dumbarton was come within a mile of them, it was fitt immediatly to fall upon them, and fight them whille they ware weary ; this was rejected by Sir John Cochrane, and Sir Patrick Home of Polwart, (who had ane accumulation of reasons against every thing that was proposed, being never satissified with anything he met with.) Then Argile moved, that they should march straight forward to Glasgow, and he doubted not but they might easilly surprize it, ther being nothing to guard it but Winton's Militia regiment of East Louthian, and by it they would both get provifions and breathing to look about them ; in this he was also outvoted as a dangerous attempt. So ther nixt resolute was, to crosse over to the south fide of the river of Clyde to Renfrew, at that fuard called Kirkpatrick fuard ; by which they had this advantage, that, the sea being out, they passed over easilly, whereas, in the morning, my Lord Dumbarton and his forces miffing the rebels, and hearing they had croſſed the river, and attempting to doe the like, ther was no riding it, the sea being in, so that he behooved ather to ſtay till the ebbe tyde, or goe to Glasgow bridge, which laſt he choiſed. But this ſtratageme did caſt him half a day behind ; however, Providence infatuated the rebels, ſo that this advantage of marching ſignified them nothing, for Sir John Cochrane, thinking himſelfe in his oun ground, undertook, with the help of guides, to condu& them ſafe in to Galloway, and ſo jank their ennemy ; and if they fand ther reception ther not ſecure, then to march ſtraight to the English border. But, on the 18<sup>t</sup> of June, in the morning, being Thursday, they fall into a bog, wher all their horse and baggage is myred ; and during the tyme they are diſimboguing themſelves, a detached party of dragouns, under the command of the Lord Rosſe and Captain Clelland, comes upon them. Before this tyme, Argile had left them, and defiſed every on to ſhift for himſelfe. Sir John Cochrane for-

told him his destiny, that the country people would seize on him as a stragler, and he would be carried in Dundonald, his father's coach, to Edinburgh, which came to passe, only Sir John Cochrane did not foresee his own fatality. Sir John Cochrane seeing that party of the King's forces approaching, he took up his ground within a fauld dyke, so by that nothing was seen but ther head pieces: though he, with some 300 men, ware so advantagiously posted, yet Captain Clelland, with more zeall than discretion, charged them and was killed on the plate. A bullet grazed on my Lord Rosse's breif plate, (to which, nixt to God, he was beholden for his life,) and from that rebounded on his face, but did him little or no hurt. Sir Adam Blair younger of Carberry was shot in the neck, and Sir William Wallace of Craigie, in the thigh, but none of them dangerously wounded; on Dundas, a lieutenant, had his arme shot away with a blunderbush. The service was so hot, and the ground so weill defended by Sir John Cochrane and the rebels, that the dragouns seing Clelland, ther Captain, killed, would not come up, so the rebels escaped to Blackstoun, besyde Paisley, and in the night tyme, dissipated and escaped by the help P. 94. of the darknesse; though the nixt day, many of the Hylanders and other common bodies ware apprehended stealing away home.

As to the singular and providentiall way of Argile's taking, it was this: seing ther affairs marred, and ther march retarded by falling in that boog, and having caused Seton fyre a heathery moor, to impede, by the mist, the ennemis pershuit of them; he withdraws from the body of his forces with 2 men, and thinking he would be lesse suspect alone, he dismisses them, and trysts them to meit him at night at such a place in Galloway. Thus, ryding all alone on a litle horse, he comes to crosse the water at Inshshinnan, beside Paisley, ther 2 serving men to Sir John Shaw of Greinock, are ryding behind him, dryving ther master's baggage horse, and it being weary, they resolve to take that countryman's horse, (for he was disguised, and had a bonnet on,) from him, and set him to his foot:

they designed no more, so that if he had quite his horse, he had escaped that bout; but he not knowing ther designe, did, on ther crying and per-  
shueing him, turne about and fyre a pistoll or 2 at them, (for he had 3 on  
him,) and then took the water; but a webster dwelling ther, under Sem-  
ple of Beltries, being awakned with the noice, came furth with a broad  
sword, and whille the other 2 ware capitulating with him, for to let him  
goe for some gold he offered them, the weaver being in drink, and so  
stouter than the rest, swore he would not part with him, for he was on of  
Argile's men; wheron Argile attempts to fyre at him, but the morse  
being wet with the river water, it would not goe of: wheron the weaver  
had leisure to draw his sword, and it was so rusty it cracked in the coming  
out, and with it he gave Argile a great skelp over the head, and so stunned  
him that he fell in the water, and in the fall cryed, Ah! unfortunate Ar-  
gile; wheron they lifted him up, and being recovered, carried him away  
prisoner to Sir John Shaw, ther master, saying, that he lyed in calling  
himselfe Argile, for he was but on of his men. When Greinock saw him,  
he presently knew him, tho he had a long baird, for he had suffered it to  
grow ever fince his escape, and had resolved never to take it of till he  
ware redressed; however, when prisoner, they caused him lett shave it.  
He offered immediatly his purse to Sir John Shaw, wherin was 130  
guinees, according to the laws of war, and was conveyed in to Glasgow  
tolbuith. On which the Earle of Winton, governor of that place for the  
tyme, wrote in a letter to the Chancelor, telling him he had now the great  
traitor Argile in his custody; which was so acceptable news to our great  
men, that they immediately dispatched ane account of it to London, by ane  
exprefse, with Winton's letter to the King, because it would contribute  
and influence much to discourage Monmouth, and any more from joyning  
with him. Argile was extreimly damped all that night after his taking; but  
getting leasure to recollect his thoughts, he resolved to make a vertue of ne-  
cessity, and put the best face on his misfortune he could, so he did not ap-

pear so confused and embarrassed the next morning; but Dumbarton being come in to see him, and he taking out his snuff-box, and Dumbarton craving a sight of it, and looking to the sculptures and figures cut on it, he in railerie (for he cannot want his sports) told him, he would not find any crucifixes nor crosses on it, fearing his religion. Immediately the Privy Counsell sends orders to bring him in with a safe guard to the Castle of Edinburgh.

Ther was also tane at the same tyme, on Collonell John Ayliff, who P. 95. had associat himselfe with my Lord Argile, on this discontent, that his father being a wealthy man, worth 2000 lb a-year, he had mortgaged and lost it all in the King's father's service; and yet, on the late King's restitution, in 1660, notice was not taken of him, which provoked him to draw up with the republicans in England, and when the conspiracie broke furth in June 1683, he fled to Holland, and is named on of them in the King's printed proclamation then red in the churches; and being a gallant sojour, was induced by Argile to come over with him, who payed him so great respect that he was content to let him command above him, and to receave orders from him, and my Lord Dumbarton had a great deference to him. This man being rudely used, and beat by Grahame of Dougaldston's men, who took him, it provoked his spirits so that, not being searched, he in the night tyme endeavored to murder himselfe by ripping his belly with a pen-knife, and giving himselfe 2 wounds; next morning Dumbarton expostulating with him for attempting so unchristian ane action, he acknowledged it to be the most base and cowardly thing he had ever done in his life, but he was wearied of living; the 2 wounds being dressed ware judged not to be mortall. Our historie tells us, that it was suspected, that our Secretary Maitland or Leidington poisoned himselfe at Leith in 1570, to shun a violent death. And the Earle of Effex was reported, in 1683, to have cut his oun throat in the Tower of London on that same ground. Some had indiscreitly told Ayliff he would be cruelly tortured, which tempted him to offer to be *felo de se*. (See Ayliff execute, infra p. 117, at London.)

Collonell Richard Rumbold, another Englishman, was also taken at Lefmahaigo, by Hamilton of Raploch younger, and his militia men; (vide infra a reward for it, pag. 106.) He was flying into England, being conducted by on Turnbull, a man of Polwart's (for Polwart had secured himself by flight sooner then the rest had done.) He was bold, answerable to his name, and killed on and wounded 2 in the taking, and if on had not been some wiser than the rest by causing shoot his horse under him, he might have escaped them all; however he undervalued much our Scots souldiers as wanting both courage and skill. What had unfortunatly ingadged him in this interprize was, that he had been from his infancy bred up in the republican and anti-monarchick principles; and he ouned he had been fighting against thesse idols of Monarchy and Prälacy fince he was 19 years of age, (for he was now past 63,) and was a Lieutenant in Oliver Cromwell's army, and at Dundy and fundry of the Scots battells; and by the discoverie of the English phanatique plot in 1683, it was proven and deponed against him, that this Rumbold had undertaken to kill the late King in April 1683, as he should returne from Newmarket to London, at his oun house at the Ry in Hogsdone, in the county of Hartford, wher he had married a maultster's relift, and so was designd the maultster, and intended to have a cart overturned in that narrow place to facilitate ther assaivation; but God disappointed them by sending the accidentall fyre at Newmarket, which forced the King to return a weik sooner to London then he designd, (see all this in the King's printed Declaration); but Rumbold absolutly denied any knowledge of that designd murder, tho on the breaking out of that plot he fled with others to Holland, and ther made acquaintance with Argile. It is certainly a reflection and leives a mark of baseneffe on my Lord Argile, that he should have assumed such willians and miscreants into his company as this Rumbold and 2 of the murders of the late Archbishop of St. Andrews, viz. J. Balfour of Kinloch, alias Captain Burlie, and on Fleiming in King's-Kettle in Fyffe; and it

was also rumored that he had on Collonell Ludlo with him also, who, I find by Baker, in the death of King Charles the I., was a juryman on the murder of that King, and on his sone's restitution did fly to Switzerland, P. 96. and live ther: all Argile's excuse was, that any who undertook such a desperat game as his, had not the choise of ther company; yet I find, 2 Chronicles, cap. 25 and [7th] v., King Amaziah reprooved by the prophet only for taking the ayde of the idolatrous Israélites; and tho ane army of saints cannot be got, yet Argile had looked more to his oun credit to have dismissed such infamous persones as thesse.

Tho the King hes reason to thank God for this successe over his enemies, yet ther cannot be much joy after a victorie in a civil war: the Romans used scarce ovations, but no triumphs in such cases. Lucan tells us, *Bella geri placuit nullus habitura triumphos.* (See Valerius Maximus, lib. 2, cap. 8., Anto. Mathæus de Criminibus, p. 320 and 591; and the same Matthæus, p. 586, fayes, *Nihil vetat, but cum publica lucticia privatus dolor ob vicem mortuorum in pælio civili fit mixtus.*)

Whatever was in Argile's first transigression in gloffing the Teft (which appeared slender) yet God's wonderfull judgements are visible, pleading a controversie against him, and his family, for the cruall oppreßion he used not only to his father's, but even to his oun creditors. It was remembred, that he beat Miftris Brisbane done his stais for craving hir annuelrents, tho he would have beftowed as much money on a staff or some like curioſity; 2<sup>do</sup>. They alledge, he was the author of cauſing his father the Marquis goe to London, (for he hoped to procure him a pardon,) wher he was tane and ſent home a priſoner, and headed. Polwart's differing with Argile in the counſell of war, minds me, that our ſtory affords us many iſtances wher diſſentions among our generall officers, (as at Bannockburne in Wallace's tyme, at Soloway Moſſie in K. James the 5<sup>th</sup> reigne, &c.) our animoſities and pride, hath oft fatally chattered our forces, and occaſioned the loſſe of many battells.

Argile was brought from Glasgow to Edinburgh, prisoner, on the 20 of June, and he lingred so by the way that it was neir ten a cloak at night ere he arrived at the Watergate, so that his ignominious reception ther, and dedu&tion up the street to the Castle was not so discernible. At firſt our rulers ware so irritate, that they resolved to put all the marks of contumely on him they could ; ſuch as, a cart was provided at the Watergate, with a chair in it to bind him on, and ſo hurdle him up the way, the hangman leading him, or else to ſet him on a coall horſe, allſo ready ther ; for it was reported, that in 1650, when the Marquis of Montroſe was brought up prisoner from the Watergate in a cart, this Argile was feeding his eyes with the fight in the Lady Murrayes balcony, in the Canongate, with hir daughter, his lady, to whom he was new married, and that he was ſeen playing and ſmiling with hir. Montroſe had the King's commiſſion for what he did, and therfor the injurys offered him ware the greater ; and our ſtaſſmen's anger being ſomewhat abaited, they did not trait Argile ſo ignominiously as was firſt intended, which was to have carted him up the way, and laid him in the dungeon of the Castle with great heavy ironſ upon him ; but ſeing we condemne theſſe rebellious tymeſ for ther rigor, our great men (not knowing ther oune deſtinieſ), thought it no fit copy to imitate, ſo all that was done to him was, that he was met at the Watergate by Captain Grahame's company and the hangman, who tyed his hands behind his back, and ſo the hangman going before him, he came up on his feet to the Castle, but it was caften to be ſo late that he was little ſeen. That day he was coming in, Sir Duncan Campbell of Auchinbreck, who had been in the Rebellion, and his ſone Mr. Charles Campbell, ware obſerved to light in the Canongate by ſome P. 97. who knew them, but notwithstanding all the ſearch was made for them, yet they escaped.

Now, to deſcant a little on this reverse of fortune. Ther was ane English prophecie, called Cataſtrophe Mundi, (de quo ſupra, p. 55,)

wher great things ware expounded of a litle Hylander, which the phanaticks applyed to Argile; but we see by this fatall end the vanity of such expositons. The dulnesse and filliness of the manner of his taking is very od; Providence confounding our common opinion of things: every on reputed Argile walian and witty, and Sir John Cochrane neither, and yet Argile sneaks away from the hazard, and Sir John fights stoutly like a man; only, the greatest coward when straitned (like a cat pershued in a cupboard) will fight desperately eneugh. For parallels of Argile's taking, I find Richard the 2<sup>d</sup> of England returning from the wars of the Holy Land throw Austria, in Germany taken by a peasant, and brought to the Emperor, then his enemy; (so Munster in Cosmographia, pag. .) Some alledgedes, Charles Duke of Burgundy at the battell of Nancie, and our King James the 4<sup>t</sup> at Flodden, escaped. Abimeleck (cap. ix, of the Judges, v. 53,) is killed by a woman's throwing doun a piece of a milfton on his head; and Pyrrhus King of Epirus (as Plutarch relates in his life) dyed by the same fate in the siege of Argos. But this was yet more surprizing and unprobable, that the generall of ane army should be apprehended by country people, he stragling and stealing away before the fight; and every on thought him so gallant and generous, that, rather then be so tane and brought to a scaffold, he would much more choise to fight and be killed on the field, as Rumbold answered, when he was bid render himselfe, "That he came there to fight for death, not for life." Argile had miserably deceaved both himselfe and thosse he had persuaded to joyne with him; for, 1<sup>o</sup>, The kingdome was not disposed to ryse so numerously as he expected; 2<sup>o</sup>, Monmouth partly throw fickness, and partly by unreadiness, (tho it was concerte and agreed betuen them in Holland, that he should follow him, so that both ther invasions should be at once,) was so long of landing in England. The phanatical discontented people in Edinburgh, ware long ere they ware disabused or brought into the beleiff that it was Argile that was tane; and Mr. Spence having been

brought before the Privy Counsell, and intimate to him that Argile was tane, and he neided no more be disingenuous, now seing all would come furth, he laugh't at them, and with a very obftinate and unbelieving carriage said, “ If ye have the principall what neids ye ask thesse quaeftions at me.” Ther was a search made throw the trained bands of Edinburgh to see if any had gone furth and joyned with Argile. His attempt is now cryed out upon as treason, and deservedly, like Cataline’s conspiracy ; but if he had prospered (as Julius Cæsar did), then the vulgar opinion would have magnified the enterprize as heroick, for Seneca tells us, that *Fælix scelus virtus vocatur, et e contra infælix virtus scelus, nam totus mundus regitur opinionibus.* Yea, for on fact the judgement hes been contrare, *prætium ille sceleris crucem tulit at hic diadema ; but careat succubibus opto quisquis ab eventu facta notanda putet.* Many condemned Argile’s conduct, 1º, In touching at Orknay as he paft by the North Iles, wheirby he ruined his busineſſe in allaruming all the country ere he came to his oun Hy-lands, so that Scotland, ere he landed, was in a military posture to receive him, tho he hoped this advertisement would have moved people to have come in and joyned with him ; but he mistook our temper, for whatever ſecret favorers and weiliſhers he had, they durft not openly appear ; 2º, Others blamed him for not fighting Atholl before the Duke of Gordon and the other forces came up to him ; and in not keiping himſelfe in his faſt ground, but coming to the champaigne country. Argile reſleſted on Athol as ſhunning to fight him ; but wherever on is defait ather every P. 98. accident is blamed, or elſe *quos perdere vult Jupiter hos dementat.* O the ludibrium of humane fortune ! Argile in pomp and glory carried our imperiall croun before this King when Duke of York in his Parliament 1681 ; and now, in 4 years tyme, he is ignominiously led up that fame very ſtreet by the hangman, *Quem dies videt veniens superbum, (inquit Seneca Poeta Tragicas in Thyestæ) Hunc dies videt fugiens jacentem,* which makes Cicero de Oratore, lib. [3.], cry out, *O fallacem hominum ſpem, fragilemque*

*fortunam, quae in ipso portu saepe obruitur*; see it at large in my little 8vo. manuscript History, page 83. Let all men, but especially great ones, take example at this instability of fortune's wheill, let them learn to fear God, honor ther King, walk uprightly, and use ther power while they have it moderately; but no beacons will direct them to hold of thir shelfes, which pride, ambition, malice, avarice, revenge, &c. dryves them headlong upon. O but a serene conscience under suffering is the best support; *Hic murus ahaeneus esto, nil conscire sibi, nulla pallescere culpa*, sayes Horace. Let us hate and oppose the treason, but pity and pray for the guilty person ther æternall state, whatever come of ther body left as a sacrifice to justice. Montrose with a small handfull of men gave this country work eneugh, and gained sundry battells; and it was once feared Argile might have done the like. If God had a mind, he might have made his handfull to scourge us like Gideon's 300 leaping men, and like the 300 Lacedemonians at the Thermopyle who stopt Zerxes' waft army; we are at a great height in sin and impiety; its like punishment is near, who-ever shall be God's hand or instrument; for Horace, libro 3, ode 2, tells us, *Raro antecedentem scelestum Deseruit pede poena clando*; tho it come *tardo*, yet it comes *certo pede*, unleesse we prevent it, with Niniveh, by a serious and tymely repentance. This invasion of Argile's exadly quadrates with what he proposes in his letters to Major Holmes, deciphered in the printed narrative and account of his plot, page ; wher, calculating the opposition he would meit with, he calls our standing forces 3,200 men, but they are short of that by 500 men, our militia 22,000, and our heritors and ther servants and attendants 50,000 men; but he layes not much stresse of the war upon any of thir 2 laft. It was a very craftie way of writing, and speaks Gray of Creichies skill in reading and deciphering them, which perfectly aggries with the depositions taken in England, and the tryalls of the Lord Russell, of Walcot, Hone, Rouse, and the King's Declaration of that plot in Jully 1683; so that Argile hes been hatching this rebellion

ever since his escape on the 23 of December 1682; but more closely since E. Shaftesbury fled also over to Holland in November 1682. He then beguiled Lundy, former governor of the Castle of Edinburgh, by Lady Sophia Lindsayes help, (who is now for his cause keiped prisoner in Edinburgh Tolbuith); this will cause Major Whyte look better to his prisoner now. The wind Argile got from Holland (whence he set out on the 2<sup>d</sup> of May last,) was so favorable that it brought him in a very few dayes to Orknay, and from that about to the North and West Iles, which made some think his witches had sold him a wind; but he has got no good wind to carry him away. By this insurrection the King may see his Protestant subje&ts ounre him, and the Duke Gordon, Dumbarton, nor the other Papists had no hand in this victory, but the forces with my Lord Rosse, and they litle ather, meir Providence has done all; so that no party can much brag of defait, but only the wise and overruling hand of Heaven. P. 99.  
I think the Webster who took him should be rewarded with a litle heritage, (in such a place wher Argile's death will not be resented,) and his charter should bear the cause, and he should get a coat of arms as a gentleman, to incouradge others heirafter. Argile regraits much the common peopple that ware with him, for they are ready to take any bonds or tefts, and it was not religion that moved them to rise, but ather affection to ther late master and cheiff, or else they ware compelled, and others trepanned with fair promises; and the Dutch seamen ware not acquainted with his designe till he had them at sea. In March and April this year, when Argile was preparing his rebellion, we had very boisterous winds, which verifies the French proverb, 'Grand vent, grand trahison.' The beginning of our King's reigne is turbulent, like King Henry the 7<sup>th</sup>, (whosse life is weill write by Sir Francis Bacon, Lord Verulam,) he had a controverted title to the croun: this is but a gust *Nubecula est cito transitura*. Argile, in discourse, being challenged for calling this King a tyrant, he confessed, they behooved to load him in ther printed declarations as ane usurper, and only

call him Duke of York, (tho he knew him to be lawfull King,) to amuse, gull, incense, and draw in the peeple, (which method John a Leyden, and Knipperdoling confesses, in Sleidan's Commentaries, they followed,) because the vulgar love alwayes to be of a querulous temper, againt all government whatsoever, (ther being no perfection from errors attainable in any,) and ther most be blinds of the losse of liberty and religion used to deceive them. Yet we see God sometymes bring his works about, even of reformation, by none of the devoteſt or beſt instruments. God knows what brave protectors of our religion his Hylanders would have been, who nather regard nor know any religion at all. Some victories have been in the report anticipate, and heard by the information of ſome ſpirits before the news of it could come, as Livy and other historians tell us.

Mr. Rumbold was brought in to Edinburgh on the 22 June, (that fame day of the moneth on which Bothuelbridge was foughten,) and, at the Watergate, was put upon a ſled or hurdle, with a rope about his neck, and ſo drawen up to the Caſtle; he looked alwayes for the gibbet, thinking he was going inſtantly to be hanged; but he, on the 26 of June, being Friday, got a fair tryall and was execute that day; (ſee in my folio law MS. at that day, page .) Being told, in the Court, that Monmouth, in England, was affuming the title of King, Rumbold ſayd, James Stewart had indeid aduized him to affume that title, but that his beſt men ware republicans, who would never fight for him in that quarrell; and that James Stewart had caſt the horoscope of Argile's affair, (which he ſaid he might eaſily forſee, without ather the ſpirit of prophecy or divination,) viz.: that he would ruin all by lingring in the Iles, and not marching into the Inne country and landing in Galloway, and he beleived that might be the reaſon why James S. would not come alongs. As to the ſtock with which Argile furnished his ſhips and armes, Rumbold ſaid, he thought it did not exceid 12,000 lb. ſterling: how he got it, ſome ſaid, ane English widow in Amfterdam, called Miftref Smith, advanced him confiderably; others ſay,

that Polwart, Torwoodly, Mr. Gilbert Elliot, &c., went to Geneva, and to the Protestant churches of Germany, begging supply to the poor afflicted Protestants of Britain, and thus raised a great summe; but I think it was not understood by the givers that it was to be employed in a rebellion or invasion. When Argile fled out of the castle of Edinburgh, on the 23<sup>d</sup> of December 1681, sentence was pronounced against him the next day in absence, and the manner of his execution was referred to his late Majesty. Upon his being taken, our Secret Committee does instantly write to this P. 100. King to know his mind anent the prisoner; he, by a letter, ordains him to be execute within 3 dayes after ther receipt of his, but leives the manner to themselves: wheiron they deliberat long, and at laft the Privy Counfell (who are recovering somewhat of ther power now, the Secret Committee beginning to divide in factions, betuen the Treasurer and the Chancellor's mistakes, amongst themselves,) gives instructions to the Lords of Jufticiary, and they call Argile before them on the 29 of June, and intimates his old sentence to him, and ordains him to be headed the next day, and his head to be fet upon the tolbuith, fixed on a hy pole. It was long debated at Privy Counfell, whither he should be hanged or headed, and the laft carried it, (my Lord Kinnaird craving his vote for hanging him, might be marked,) the nobility stood upon ther priviledge of peerage, not loving to lay doun a præparative against themselves, for great men are moft subjeft to theſſe blaſts and reverſes of fortune; *Summos feriunt fulmina montes*: yet I find in King James the 5<sup>th</sup> tyme, in 1537, both my Lord Glammes and the Maſter of Forbes hanged, if Sir G. M<sup>c</sup>Keinzie hath obſerved aright in his Criminalls, (Title of treason, page ,) for Drummond in his ſtory of that King's life differs: the Earle of Atholl and on Grame ware cruelly tortured for murdering King James the 1; (ſee it in Buchanan, Drummond, &c.) Regent Morton in 1581, was only headed, (as Spotswood in his Church History, page , tells,) but ſuch was the ſpeit that his body lay ſome howers on the ftage, none daring

oune it till piners carried it of. Our old Scots way of quartering, was only the cutting of the legs and the armes, (as was done with the great Montrose,) but did not divide the body, which severe practise we have only of late, since Rathillet's case, borrowed from the customes of England, whom we doe not imitate in manie better things. Some urged, that he was not to be looked on as a nobleman now, after sentence of forfauitor; yet Tiraquellus, cap. 20, de Nobilitate, and others, think ther remains so much of the *jus sanguinis*, and the character *indelibilis*, (so to speak,) as gets them that priviledge of coming to the place of execution with ther hat on, and of being *Decapitati et non in furca seu patibulo per collum suspensi*. They say Argile told the King's Advocat, he deserved rather to be in his circumstances; for by serving the statmen to scrue up his Explication of the Test to be treason, he had subverted and wretched the laws of the land. Argile did not deny but the present King's title to the croun was better then Monmouth's, (he was heard say, he was not so mean as to draw a fword for his title; and yet, if they ware fighting for a republick, they ware digging a grave to ther oun nobility, for levellers to triumph over them, but men in passionat revenge doe nothing with mediocrity;) onlie to vindicat, at leist palliat, his oun refistance, he contended he had usurped and intruded, because being a Papist he had not satiffyed nor obeyed the *leges* nor *conditiones regnandi*, by taking the Coronation oath before his entry, conforme to the 8<sup>t</sup> A& of Parliament in 1567, and so he was not bound to obey him yet as his Soveraigne; but that Coronation oath is no suspensive condition nor limitation of our allegiance, tho Argile would have had the world believing it suspended him from the exercise of that power till he had secured his subiects by taking that oath. Argile (for so I have and may call him, tho some named him only Mr. Campbell, but P. 101. the great men called him My Lord, before the intimating of his sentence to him, expressed himselfe thus, that it was little he had to say, and he thought it not materiall whither he spoke it before or after the

sentence ; (*Etiam post sententiam reus innocentiam suam probare protest modo statim fine dilatione id faciat ita.* Ant. Matthaeus de Criminibus, pag. 708, 746, 767, et seq. & 806;) that he had made his escape without violence or breaking of prison ; that he was condemned the nixt day without citation, or hearing ; that he was informed the Parliament without citation, had also forfaulted him of new ; he knew that in *criminalibus numquam concluditur contra reum*, (this maxime holds only *ante sententiam numquam concluditur*), yet he would give them no farder trouble, but that he was in God's hands and ther Lordships. Some thought this doome of forfaultor scarce weill founded, being only on his Explication of the Test, wheiras he had committed crimes 1000 tymes more important since ; but to give him a new indytment on thesse was to louse the first sentence, to reflect on the Judges who had condemned him, and the Parliament who had ratified it, and his new treasons ware open, awowed, and notorious, tho his sentence on record bears nothing of it. The Roman law prohibits *luctum publicum in morte patriæ proditorum*.

And thus was Argile headed on the 30 of June 1685, as his father had been in 1661. He had all the civility imaginable put upon him ; he was allowed 8 freinds to be in mourning with him on the scaffold, viz. the Lord Maitland, his sone in law, (to whom he gave a paper of advices to give his daughter,) Montgomery of Skelmuirly, Campbells of Skippage, Dunstafnage, Carrick, Ellangreig, &c. ; he came in coach to the Toune Counsell, and from that on foot to the scaffold with his hat on, betuixt Mr. Annand, Dean of Edinburgh, on his right hand, (to whom he gave his paper on the scaffold,) and Mr. Laurence Charteris, late Professor of Divinity in the College of Edinburgh, whom he particularly called for. He was somewhat appaled at the sight of the Maiden, (present death will danton the most resolute courage,) therfor he caused bind the napkin upon his face ere he approached, and then was led to it. His body, after the separation of his head, by the great commotion and agita-

tion of the animall and vitall spirits, started upright to his feet till it was held doune, and the blood from the jugular weins of the neck sprung most briskly like a cascade or jette d'eau. Thus fell that tall and mighty cedar in our Lebanon, the last of ane ancient and honorable family, who rose to ther greatness in King Robert the Bruce's tyme, by ther conftant adhærance to the king, being then Knights of Lochow, with his other 3 companions, the Seton, Lylle, and the Lauder; and continued doing good services to ther king and country till this man's father proved disloyall; and ever since, state policy required the humbling of it, being turned too formidable in the Hylands, with ther waft jurisdictions and regalities. As a great man fell in Israel, so he had been all his life the ludibrium and tennis ball of fortune; his first service was for the late King (who ever retained some kindnesse for him) in the hills in 1651, and, after being tane prisoner in 1653, he remembred when he was brought to the castle of Edinburgh, and turned up his bible, the 14<sup>t</sup> chapter of Job fell up to him 3 severall times, which he reckoned providential because of the 1 v. "Man that is born of a woman is of few days and full of trouble:" If ever this text was verified in any, it has been (said he) fulfilled in me; for, after his sufferings by the Usurper, his father was scarce forfault and execute, when he was pannelled and forfault himselfe; and, having dispelled that cloud, then he fell into ane embarrasse with the Macleans for the isle of Mule; then the Test proved to him ane abyss of troubles: However, let us justify and vindicat the Divine justice in annihilating this family (which, in the long course it has run, could not but contract much P. 102. filth) for ther oppressions by which they studed to inlarge and aggrandize ther borders, and now God hath said, what you have unjustly scraped together, strangers shall enjoy it. What Argile spoke was most in the Toune Counsell house, and litle in the scaffold: in his discourse he had few refle&ctions, he did not pray for the King, but infisted much against Poperie, which the atheisme and profanity of the age would insensibly in-

trounce; he hoped no good Protestant doubted but the Pope was Anti-christ (yet many Protestants doe now laugh at this); that he thought little once a day to be brought to a scaffold; that great men would doe well to take example to rule in the fear of God, for they knew not but they might come to as publick a death as he; this was a warning to our present governors; he shunned to speak of his last invasion, (for certainly he knew it was against the laws of the land,) but dwelt much on the smallnes of that first cryme for which he was forfault, in the explaining the Test, and that he had peace in his oun breif, nather checking him, nor attesting any guilt on that head; and, tho he saw a door for deliverance, he was so willing to dy he would not accept of it:—see his speach. He pled much for favor to his children, but particularly for John, who, he said, only followed him without armes, not being able to fight throw a debility in his hands; he also recommended the poor peopple had been with him as deserving mercy and compaffion, for the moft part of them ware forced.

Tho Argile was very witty in knacks, yet it was obſerved, he had never been very ſolid ſen his trepanning of his ſcull in 1653; he was ſo conceitly he had neir 20 ſeverall pockets, ſome of them very ſecret, in his coat and breeches, and brought a printing preſſe with him, and artificiall bullets and piftolls. Tho Argile judged he got hard meaſure in his firſt forfaultor, yet he had done more like a Christian and a good countryman to have imitat the heathen Rutilius, (in Seneca, *libro ſexto de Beneficiis*, cap. 37,) who, being unjustly proſcribed and banished, it was propoſed he would be reſtored again by the civill wars, God forbiid, (ſayes he) I had rather my country ware ſtill aſhamed of ther injuſtice in forfaulting me, then that they ſhould have cauſe to mourne by my bringing alongs with me a publick calamitie on them, in my violent returning, by the remedy of armes and a civill war: Christians ſhould bluſh to be ſo out done by heathens in ther moralls; we moft not doe evill that good may come of it: we may ſay, Argile had followed Juvenal's counſell, *Aude aliquid*

*brevibus Gyaris, et carcere dignum, si vis esse aliquis; for in magnis vobis  
sat est, et magnis excidit auctis.* Argile had a responce that he should live  
to 80, which might be true, excepting a violent death; some *malunt Rem-  
publicam quam Romam suam turbari*, as Seneca speaks; and *stulte putant  
eversa Republica piscinas suas salvias fore*, ex Cicerone. See this alibi,  
in my 8<sup>vo</sup> MS. A. 5, p. 89.

About the tyme of Argile's execution, on of his grandchildren, a son of  
Lorne's, threw himselfe, being 6 or 7 years old, over a window in Leiding-  
ton, 3 stories hy, and was not the worse; from which miracle this infe-  
rence was made, that the said family and estate would yet again recover,  
and overcome this four blast.

Some look on this invasion as a small matter; but, beside the expence  
and trouble it has put the country to, if we ponder the fatall consequences  
of such commotions, we'l change our opinions: for, when the ramparts of  
governement are once broke doune, and the deluge follows, men have no  
assurance that the water will take a flowing towards their meadows to  
fructify them; no, no, just in the contrare, we have seen them who began  
the rebellion very oft ruined or laid asyde as unfit cards by another pre-  
vailling fa&tion getting into the saddle; thus, the Independents and Sec-  
tareis in England used the Presbyterians in King Charles the 1<sup>st</sup> wars,  
which the Presbyterians began, hoping to rule all: *Sic vos non vobis fertis  
aratra boves, &c.* Fools begin the stir, and knaves, not seen at first, doe  
commonly reap the sweat of such disturbances, and mock at thesse who  
only hunted the game, but are so far from getting any share, that they  
become a prey themselves, and are accabled and ruined under the load of  
that governement they had undermined, like the usuall fate of thosse who  
pull doune a wall, or kill an elephant, *mole obturuitur*. If the beginners  
of rebellions considered this in cool blood, it wold allay much of ther  
indiscreit heat.

Its reported, when Argile's corps ware carrieng away of the scaffold,

a woman of the Popish religion followed the bearers with railing, and wished shee could wash hir hands in his heart's blood ; some other weemen hearing this, it did so far provock ther choler, that they seized on hir, and dragged hir to a closse foot neir the North Loch syde, and ther beat hir soundly, and tore hir cloaths, and robbed hir of hir crucifix and beids. They say, Collonell Wytfuird and other papists spoke very broad and open things as to ther inclination to avenge themselves on ther enemies.

On the 1 of Jully, we had account of Stewart younger of Coltness taking, (for he is in the Proclamation, putting a price on the rebels heads) but particularly of the apprehending Sir John Cochrane, and his. 2<sup>d</sup> son Waterfyde, and on Dumbar, surgeon with him. He had fled into ane P. 103. old tower house of his father's in Renfrew, called Cochrane, wher his unckle Gawin lived, his wife being sifter to Captain Clelland, who was killed by Sir John Cochrane and his party ; shee receives him courteously, (in this like Jael to Sisera, Judges [ch. 4. v. 18]) but hir husband not being at home, (so this will liberate him from the cryme of reset, tho it creat a bad understanding between the man and his wife,) shee sent privy advertisement to some dragouns neir hand, who came and seized him. Quæritur, Whither the dragouns or shee deserve the 1800 merks reward for apprehending him ? it seims to be due to the discoverer. Supra we have seen Abimelech and Pyrrhus dy by the hands of weemen, who are superlative vindictive ; but that French gentleman was more generous, who sheltred a neihbour who had killed his oun nephew (which he knew not then, but the officers coming to search for him and finding his guilt,) he came to him and privily dismissed him, seing he had given him his word of honor, he would not violat the *jura hospitalitatis* by delivering him up to justice, but thought he was not bound to keep him any longer, but bade him shift for himselfe.

Supra page 88, et seq. we have some passages and occurrents of the

English Parliament ;—to prosecute some mo of the occurrences happened then, and ther a&ts and bills : Ther was a motion in the House of Commons for erecting and keiping a register in every markat toun for discovering titles and incumbrances upon lands ; the want of this makes ther rights very infsecure, and in 1670, and at other tymes, it hes been attempted to introduce the practise of our registers among them ; but it was alwayes opposed by the lawyers as spoiling part of ther trade, and out of envy to us, that they scorne to borrow our customes ; (see mention of a pamphlet against it called Registering Reformation, in ane answere to it by Sir G. Mackenzie in the end of his Pleadings, in 4to.) A bill for keiping a register of all births, burialls, marriages, &c. Upon the Duke of Monmouth's landing at Lynne and invading England, the Parliament brought in sundry a&ts against him, as a bill of attaintor of him as guilty of hy treason ; item, a bill declaring his illegittimateneſſe, and that it should be treason in any to give him the style or title of King, or to refet or spread his traitorous Declaration ; with ane addrefſe to his Majefty, that he might not venture his ounē royall person, but might offer £5000 sterl. of reward to any who should bring in the said Duke of Monmouth dead or alive ; (of this see afterwards page 105.) Befide the former ſubſidy, they, in reſpe&t of the war, vote the King a farder ſupply beſide what is, ſupra page 89, and a motion was made, that it ſhould be a year and a halffes full rent of all the houſes in London built fince 1661, ther being a prohiſion then in reſpect the city ſwelled too big ; but the citizens exclaiming, they ware forced to alter the funds out of which it ſhould be raiſed, and to lay it on brandee, callicoes, coco nuts, wrought and unwrought filks, &c. ; and in regard this impoſition was for 5 years till 1690, and the King's affairs required a preſent ſtock, they paſſed ane a&t to raiſe and advaſce 400,000 lb. sterl. theirof, upon credit by anticipation preſently. Thir ceſſes the English Parliament have granted the King are not conſiderable, and are laid on the merchand, which makes ane outery ;

but they grant the King no land cesse since May 1678, at which time also they gave him pole money *per capita*; the chimley money is annexed to the croun in the last King's tyme, in compensation of the waird holdings and liveries, which he then quate to the peopple. Item, a bill to incorporate a part of the post office to the croun for augmenting its revenue. P. 104. Item, a bill for rescinding a clause in ane a&t anno 29 and 30 of the last King, and now allowing the importation of French commodities in regard thesse goods ware stollen in uncustomed, and so none but the King was prejudged. Ane a&t for releiff of poor debtors and prisoners. A bill brought in to naturalize all the French Protestants already come over, or who shall come betuixt and a day to be defined, providing they translate the English Liturgie into French, and use it in ther congregations, and acknowledge the governement in Church and State;—this is a politique a&t in the King, and commendable for him to assent theirto. The common counsell of London cause raze out and deface the inscription Sir Patience Waird had caused put upon the London Monument, the tyme of his majorality, anent the cities being brunt in 1666 by the Papists, and ther murdering of Sir Edmondbury Godfrey; the English Parliament ware displeased at this; as also at a motion made, that French forces might be invited over to assist the King against Monmouth. A bill in favors of the trade of silk weavers. Ane a&t for setling and securing the Quean in hir doury or joynture. Ane a&t to enable the King to set a leife of his croun lands in his Dutchy of Cornwall. A bill against importing gun powder and small arms, for incouradging artificers at home. A bill against simony. Another for repreffing perjurie, in regard they found the punishment of it too small in Titus Oats' case. And Thomas Dangerfeild alias Wilhonby, being arraigned at the King Bench bar for publishing a scandalous and infamous narrative refle&ting on the King, then Duke of York, as accessory to the Popish Plot, (see a note of it alibi,) and being convict, he is fyned in 500 lb. sterl., set on the pillory, and scourged

first from Auldgate to Newgate, and the nixt day from that to Tyburne ; (vide supra pag. 84 et seq.) Item, Richard Baxter, the famous non-conformist minister, is convict for writing and printing some seditious annotations on the New Testament, and for it is fyned in 500 merks sterl., and imprisone d till he pay it, and find baill for his good behaviour for 7 years coming, for he is very old. Some of the House of Commons made likewayes a proposeall that some late printed books should be censured, such as the works of on Petit a lawyer, of on Thomas Hunts, also ane Innes-of-court man, for London's charter, and against this King when Duke, Mr. Gilb. Burnet's History of the English Reformation, &c. :—Some thought thir propositions and proceedors od. Ane a<sup>c</sup>t that seamen may be hearafter preffed to serve in the King's ships, which was not lawfull before. Leive is given to bring in a bill for the building of ships ; another for improvement of tillage and breeding of cattell. The King in his robes and croun in the House of Peers having touched the supplie, and sundry of thir a<sup>c</sup>ts that ware ready, he adjourned the Parliament, on the 1 of Jully, to the 4<sup>c</sup> of August, in respect of the present expedition against Monmouth.

Before I come to Monmouth's invasion, I'le step a litle over seas, wher the Greek Mainots revolt from the Turk, who suspecting ane religious P. 105. Abbot in the Gulf of Trevesa, as accessfory theierto, they impale him alive by dryving a staik thorow his fundament to his mouth. The Christians, under the command of Collonell Heuflar, besiege and straiten the Turks in the toun of Neuhauffell, which they defend with couradge eneugh. From Madrid, in June, we hear that the King of Spain commanded the Duke de Medina Cæli, to retire from Court to his campaigne houſe, 18 miles diſtant, called Collolludo ; he was first gentleman of his chamber, and master of his horses ; the caufe of his disgrace was not then knownen, but on of the Quean's waiting maids discovers a conspiracy againſt the King. The Duke de Willa Hermosa declines to accept the governement of the Spanish Netherlands. See infra page 113.

Supra, page 91 et seq., we have seen the fatall end of Argile's bold attempt: in prosecution of the same designe, did the Duke of Monmouth, in 3 ships, land on the 10<sup>t</sup> of June 1685, with 150 choise men at Lyme, in Dorsetshire, near the Ile of Wight, wher he knew the peeple ware most inclined to him, and much disaffected to the present King. Immediately the King emits a proclamation against him, the Lord Gray, and his other associats, declaring them traitors, condemning ther villanous proclamation, and offering the summe of 5000 lb. sterling, to any who shall bring in Monmouth dead or alive; and the Parliament passe a bill of attaintor against Monmouth, and for preservation of his Majesties person and governement. See more of the Parliament's actings in this, supra page 103, and that they will stand by the King with ther lives and fortunes. Major Wildman, Captain Mathews, Charleton Speak, John Trenchard, Collonell Danvers, and others, absconding themselfes, and it being suspe&ted they had run in to Monmouth, ther was warrands ishued out to arrest them; but the birds ware flow'n. From Lyme the Duke of Monmouth marched to Taunton, (wher the famous Mr. Joseph Allane had been minister,) both which tounes boor long feidges in King Charles the 1<sup>st</sup>'s tyme, in behalfe of the Parliament, and the King was forced to raise and leive the last, viz.:—Taunton in Somersetshire, which, in commemoration of that long seige, wheirin they ware redacted to eat horses' flesh, they keiped ane anniversary thanksgiving for ther deliverance, even after the late King's restitution, which he studied to abolish as a most absurd reflection, and yet was not able wholly to accomplish it. Thir western shires of Wales, &c., are very anti-monarchicall, and much enamoured to be at a Commonwealth and Democracy, which made Rumbold, (supra page 99,) say, that Monmouth was not weill advised to assume the title of King, seeing his best men ware Republicans.

The King was somewhat straitned with this invasion, for he had not many standing forces, and he durst not empty nor evacuat his garrisons,

nor the militia of London, nor weill leive the city, leift the il-affected ther should rise for Monmouth. Whoverer, his fate begins as Argile's, for as his ships ware tane at Ellangreig, so are some of Monmouth's tane at Lyme, and 5000 stand of armes, in regard he wanted carriages to transport them.

The Duke of Albemarle meits a party of the rebels neir Taunton, and defaits them, killing on Buffat, the son of ane old rebell in that toune; on Lieutenant Monaux, on the King's party, is also killed in that rencounter. Monmouth cuts and breaks dounne the bridge at Bridgewater, which casts the King's army a confiderable march about; and then he goes to Philips Norton and Frome, defending himselfe with the lanes and thick

P. 106. hedges their: notwithstanding wherof, a party of the rebels is attacked behind thesse hedges, by Lowis de Duraz, a Frenchman, created the Earle of Faversham, and the Earle of Pembroke, and the Lord Churchhill, and 200 of them defait, and ther leader Captain Mathews, son-in-law to the late traitor Sir Thomas Armstrong, is killed; and on the King's syde, the Lord Newport's sone is shot in the belly. Monmouth was judged to have about 7000 of the ill-armed rabble with him. He was saluted as King by the rabble, and so prayed for by ther ministres, and he touched such as had the King's evill as King. William Disnie esquire, and printer of Monmouth's traiterous Declaration, being taken, was arraigned and convict theirof, and is hanged, drawen, and quartered at London. The news of Argile's totall rout did weaken Monmouth's party exceedingly. He assumed the title of King, by Fergusson's advice, thinking the nobility and gentrie would then come in to him; and in that stile wrot to the Duke of Albemarle, commanding him on his allegiance to desert the service of that usurper, who had poisoned his brother, and come in to him, the late King having been lawfully married to his mother. He also created the Lord Gray (as was reported) Duke of Monmouth, and a knight of the Garter, (because our King had lately made the Earles of Peterborough and Rochester, knights of that order,)

thinking he had no more use now for that title of Monmouth, having assumed a hyer; he also made our Mr. Rot. Fergusson, his Secretary of State, and on Mr. Richard Goodeneuch, his Hy Treasurer; and on a Sunday he attempted (like Oliver Cromwell's trick) formally to preach to his army. The King beside his suadadoes, called over from Holland his 3 Scots regiments, and his 3 English ones; and to incouradge his souldiers, he declares, he will give the 5 militia men of Arran's regiment, in Cliddifdale, who (supra page 95,) took Rumbold prisoner, the 500 lb. sterlē he had promised, by his English declaration, for any to take him, and if they ware dead, ther wives, children, or neareft of kin, should get it æqually amongs them. Some wondred that the King of France did not concerne himselfe in this plea; for no doubt he is content to see England humbled and debilitate by intestine commotions; but as for Monmouth's designe, that King loves not to conquer crouns for others. The King emitted a proclamation offering a pardon to all the rebels with Monmouth, under the degree of officers, that should lay doun ther armes immediatly and come in; which had such good effect, that some 100<sup>a</sup> left Monmouth; who commanded all the carpenters, maiffons, bricklayers, &c. to attend, which made us beleive he intended to fortify himselfe in a camp. Our King having sent for his 3 Scots regiments, and his 3 English ones, that ware in the Dutch service, the 3 Scots regiments are immediatly shipped, and the King sees them rendevouz at Blackheath, to his great content. The Prince of Orange sent and offered his personal service to his father-in-law, and ordered ten ships to scour the Maife and the Uly, that no more ships might come furth to Monmouth's ayde; and not knowing the printer was taken, put the price of 500 lb. upon his head, and the States ware so civill as to offer the King the 6000 men they are oblidged to send him when he neids them. The King's forces lying in a plain near to Bridgewater, the Duke of Monmouth, with great secrecy, marched on the head of his army, being then 6000 foot, and the Lord Gray, on the head of 1200

horse, and thought to have surprized the King's army on Mounday morning, being the 6<sup>t</sup> of Jully; but they stod so obftinately to it, that, for all ther silent march, they found them on ther guard, ready to receave ther shot; so that at laft Monmouth's men ware forced to give back and yeild, P. 107. and, being once disordered, they could never be got to rally again, notwithstanding all Monmouth's courage, and payns he took to doe it; wheirupon, his army being totally routed and broke, he was forced to flee of with some 50 horse, and succumb to his hard fortune. Thoffe who boor the brunt of this battell, and had the honor of the victory, was my Lord Dumbarton's Scots regiment, to the credit of our nation (tho Dumbarton himfelfe was in Scotland.) Captain Robert Hacket took Monmouth's oun standart or cullors, with this motto in gold letters on it, " Fear none but God." Captain Moncreiff, with 5 lieutenants, and 4 of ther enfignes, ware wounded, and some of them mortally, and about 30 fouldiers killed; so that the fate of this day the English and the King ow it to the Scots.

On the 7<sup>t</sup> of Jully, the day after the battell, my Lord Lumley's men found the Lord Gray in a disguise at Ringwood in Dorsetshire, and asking at him for Monmouth, and he answering timerously, they apprehended him, and brought him to Lumley, who knew him; and, being enquired anent Monmouth, he said, he fled that fame way; wheiron they got on of the forrester of the woods' flough or blood hounds (who follow theives, but ther race is much worne out in our Scots borders,) who finelled Monmouth out in a dry ditch, wheir he had creipt in all covered over with bryars and bushes, braiks or ferns, and was so fast asleip (having never been in bed nor his cloaths of since he landed at Lyme 4 weiks before), that when they pulled him up he could not stnd nor speak sensibly; he was so drunk with sleip that he nather knew wher he was, nor that he was in his enemies hands: he was in a gray freize coat, and a leather girdle about him; he had his George, the badge of the Garter in his pocket, with 200 guinnees.

Some of the principall rebels fled from Barstable to Elford, and leiving ther horses ther, about 60 of them forced a boat and thought to escape, but ware tuyse driven back, once by the wind and the second time by on of the King's weshells; wheiron they took shelter in some of the cliffs and rocks in that coast, wher they most ather be taken, or leap into the sea and droun, or starve and dy; amongs whom are said to be Mr. Rot. Fergusson, our countryman, with Melthorp, and Richard Goodeneugh, once under sherrif of Middlesex. Of Monmouth's party ther ware about 1500 killed, and 300 taken prisoners, wheirof fundry ware immediatly hanged on the place at Taunton and elsewheir.

On Moonday the 13 of Jully, the Duke of Monmouth, the Lord Gray, and on Brandenbrugh a German, ware brought prisoners to London. Monmouth wrote most submisse letters to the King, Quean, Quean Dowager, and Lord Treasurer, and desired leive to see the King's face; which was allowed him, the King conferring with him for halfe ane hower in presence of Midleton and Sunderland, his two Secretaries of State. But as soon as it made tyde they ware put in on of the King's barges, manned and lined with fuziers, and carried thorou London bridge away to the Tower, in at Traitors' gate, (which is ominous to all who enter that way,) wheir his lady and children ware allowed acceſſe to him. The nixt day, being the 14 of Jully, the 2 shireffs of London came to him from the King, and acquainted him to prepare for death against the morrow, ſeing he stood condemned guilty of treason by A& of Parliament; and accordingly, nixt morning at 9 a cloak, he was brought out to a scaffold erected on Tower-hill, ſtrongly guarded with foot and horse ſouldiers, accompanied with the Bishop of Bath and Wells, and the Bishop of Elie: he had on a dark gray coat lyned with black; he had little diſcourse, but ſtudied a whille on the block and prayed, and gave ſome guinees to the executioner, and desired he might put him to as little P. 108. paine as could be; yet he mangled him extreimly with 5 stroaks ere he

got of his head: (*Est error vulgaris quod liberetur caput certius uno ictu resecta non est*; A. Mathæus de Criminibus, p. 907.) Some thought this torture (the first hack made him lift up his face and look to the bourreau) nather injoyed nor designed; but that the executioner's eyes and courage failed him, (considering the person he was killing,) that the ax was ready to drop out of his hand, and he offered to give it over had not the Shireffs of London threatned him to perfyte it. And so ended this stout and unfortunate Prince, the nobility of whose birth procured him the favor to be headed, and not to be demamed, hanged, drawen and quartered, as other traitors use to be. It was reported, that Doctor Turner, bischop of Elie, brought a letter from Monmouth to the King, begging his pardon for taking his title to the croun of England, &c. on him, and that he had not done it had he not been forced to it by some of his party, (tho all the republican faction would be against it,) and that he had no pretence to it, being oft told by the late King, his father, (who would have been very loath to have execute a capitall sentence on him, no more than David intended that his rebellious sone Absolon should have been killed,) that he was not married to his mother; and begged his Majesty would be kind to his children, for the King had imprisoned both them and their mother the Dutchesse, on the account it was reported shee was with child, and so had conversed with him, (how far this correspondence of a wife with her husband is criminall may be doubted); but Monmouth's claiming the croun, tho' on a title never so slender, will intayll a jealoufie against all his children, who may set up the same pretence when giddy rebellion gets ane opportunity, so that the King will never think himselfe secure without detaining them in perpetuall imprisonment; wheiras if he had not put in his clame, it's like the King would have restored his posterity. Among other prisoners tane with Monmouth, ther was his servant Mr. Williams, Collonell Holmes, and Perrot his major, and the constable of Crookhorne, and Mr. Goodeneugh.

The King, by his proclamation on the 11<sup>t</sup> of Jully 1685, immediatly ordered a thanksgiving to be keiped in all the churches of England on the 26<sup>t</sup> of Jully for his deliverance. We prevented them, and keiped our's, on the south side of Forth, on the 23<sup>d</sup> of Jully. By this successe, (tho more redevable to the divine providence then any humane aid,) some termed the king James the Hardy, as they denominated his brother Charles the Clement or Mercifull. Some talked of projects to spare Monmouth's life, and to keip him in perpetuall restraint; but confidering the King's humour, and his rivalling the croun, that could never be expeceted. His scaffold stood in the same place wher the popish Lord Stafford's, and Collonell Sidneye's had formerly been erected. Thus ended this storne, which I find fortold by Mr. Spence, in his deposition tane in August 1684, (as it is recorded in our printed account of our plot, page 33,) that he thought on the late King Charles's death troubles would probably arise because of the Duke's religion, which was a sort of prophecie; and as the throwing Sheba's head over the wall of Abell appeased Joab, so Monmouth's head fell a sacrifice to his unckle. All wished this victory might make the King thankfull and humble, and tender of his people in ther religion especially, for some feared it would puff up P. 109. the Papists exceedingly, and that it might occasion many to apostatize and fall away from the Protestant faith; confidering the attachement and inclination many of us have to the Reformed religion, is only the produc<sup>t</sup> of education, not conviction, and only because it was the religion of our country, and we ware bred up in it; and a religion bottomed on such a foundation as this, will easilly be deserted on the hope and prospect of some wordly advantage. Some said, that Sir William Waller had yet a reserve behind of affistance from the Duke of Brandebourg, and the other Protestant princes of Germany; but a new attempt against the King was judged by all ane impracticable folly, ther bad successe being so recent still in ther memory.

To mingle in a litle of Scots affaers heir, because of ther contingencie; in my Juridick or folio law manuscript, in the moneth of Jully, (page 15,) I have the account of the forfaulter of Denholme of Waftsheills, and Mr. Gilbert Elliot, absent fugitive traitors; and the condemning of Mr. William Spence and Stuart younger of Coltnesse to be hanged, for being in Argile's rebellion, and ther reprievall; with the taking and continuation of Mefirs. Charles and John Campbells, sones to Argile; and the apprehending Mr. Archer, on of Argile's ministers, and of Griffiffs, a non-conformist minister's sone in England, who also came with Argile; and the tuis robbing of the English packet coming to Scotland, and the 2 conjectures theirupon; item, the sending ane yaucht for Sir John Cochrane and Collonell Ayloff, to bring them to London, to discover the plotters more fully to the King, and the bad principles of Sir John's son, Waterfyde, &c. It was reported, that ther ware found on the Duke of Monmouth, at his taking, sundry books and manuscripts, and particularly on all written with his oun hand, full of spells, charms, and conjurations, with sundry songs, receipts, and prayers; item, 2 manuscripts of fortification and the military art, with another computing the yearly expence of the King's navy and land forces.

It was found, after examination of the prisoners, that our countryman Andrew Fletcher of Salton came over with Monmouth, but when they ware mounting themselves with robbed horses, he and Master Dare, a goldsmith and alderman of Taunton, discording who should have a horse, he pistoled the said Mr. Dair dead; wheiron such an uproar happened, that the Duke of Monmouth could not undertake to secure him, (for the said Dair was of the first who brought in men to Monmouth,) wheiron he was forced to retire to Holland or Spain; which accident tends to the preservation of his life at this tyme, yet it makes his processe of forfaulter very clear, which was dubious before, Argile having so far vindicat him, that he declared he wrote severall tymes to

Salton, and he was so il-mannered he would never once returne him ane answer; tho he was guilty in not sending over Argile's letters (if so be he receaved them) to the King or his officers of state, but his coming with Monmouth puts his guilt beyond all contradiction. Salton was always observed to be turbulent and factious. I heard, in the Parliament 1681, he sent sundry unsubscryved letters to the Laird of Maccairfton and other members, desiring them to oppose the a&t of the Duke of York's succeffion. See *infra*, pag. 112. By Monmouth's printed letter to the King, it appears he would have redeemed his life with the loweft submissions and acknowledgements of guilt, and that he had that to discover which would give the King a happy reigne; but, finding the King inexorable as to sparing him, he turned obstinate, and would not confesse he thought his rising in armes a fin. The clergie, who assisted him at his execution, preffed him much; but he shifted alwayes to give them any direct or categoricall answer, as ther printed discourse bears. They also urged him anent his keiping of Lady Henrietta Wentworth, who had born him children: he could not be convinced his converse with hir was any fin, for both he and shee had oft prayed to God to reveill it to them, and they had stll peace; that his father had choised the Lady Buccleuch to be his wife in his younger years, but Lady Henrietta was the wife of his affections; and all the lenth they could get him, was to say, if it was a fin to keip hir, then he prayed God's pardon for it; wherthrow they ware forced to deny him absolution, or the sacrament of the Lord's Supper, only they intreat God to accept of his generall and imperfit repentance, and to forgive him that grosse error in his judgement, that he might keip 2 weemen at once. Others denied he had any carnall dealling at all with the said Lady Henrietta; and his apologie on the scaffold seimes to make for this. His Lady, at hir first visit to him at the Tower, throwing hirselfe at his feet, fell a fwond and being recovered, obtefted him to declare, if ever shee had been uneafie to him, except in the matter of his weemen and

disobeying his father, and if shee knew any thing of his designes: he did with a groan purge hir. But his assuming the title of King unsecures his children; he had a very pretty boy whom the late King made much of, and was reported to have the mark of a lyon on his syde, and to have dyed suddenly within thesse 5 or 6 moneths, which awakened the suspiciois tonges of ill men.

The Under-sheriff Mr. Goodeneugh (who was he that arreifted the Mair of London in 1682, *supra* page 51) being brought in prisoner, confirmed that Keeling (the first discoverer of the Protestant plot in 1683) had said and affirmed, that it was Shaftesberrie's faction who, in 1678, murdered Sir Edmundbury Godfrey, the justice of peace, and yet laid it on the Papists. On his examination Alderman Cornish and Captain Rumsay, (who had got a remission, and yet had remitted money to the rebels with Monmouth,) are again apprehended. As also, ther are imprisoned in the Tower, Gray, Earle of Stamford, the Lord Brandon Gerard, and Booth, Lord de la Mere, as on the forknowledge of Monmouth's treasonable invasion.

So, as I have obserued *supra*, our present King's reigne resembles somewhat that of Henry the 7<sup>th</sup> which was turbulent and factious; but, to prevent future events, the King hes tane advantage of this juncto to raise ane army (I know not how England will like it) of 20,000 standing forces in England, wheirof the Earle of Faversham (now made a knight of the Garter) and our popish Earle of Dumbarton, are made Lieutenant generalls, (some said it was Leg, Earle of Dartmouth, also a papist,) and it is calculate, that it will take 500,000 £<sup>b</sup> sterlind yearly to pay them; and he is to have 15,000 men up in Ireland, and our standing forces are to be made up 5000; in all ane army of 40,000 men, which will danton and quash any attempts in the bud; (see *infra*, page 112.) On this discontent, that others ware preferred above him, the Duke of Albemarle, Monck's sone, valueing himselfe on his father's services, demitted his

Captainship of the King's guards, and other offices, which ware accepted of his hand, and bestowed on Feversham.

The King was so weill pleased with the loyall carriage of [Peter Mews,] Bishop of Winchester, because he could not create a churchman knight of the Garter, yet he gave him a George to wear about his neck as a badge of his favor. Bennet the Earle of Arlington, once Secretary of England, and then Lord Chamberlayne of the King's household, dying at this tyme, the King bestowed his place of Chamberlayn on Bruce, Earle of Ailesberry in England, and Elgin in Scotland. At this tyme also, dyed Sir Lionell Jenkins, late Secretary of State, who had done the late King good service, and begged leive to retire a whille from the world before his death.

It was reported, the King had got so full information from the English prisoners of all the designe both of Monmouth and Argile, and that some Anabaptists from Holland, &c. advanced them money, that he was not P. 111. resolved to call for Sir John Cochrane at all; and truely it ware generous in our King to stop the torrent of any farder delations and discoveries, leift men throw love to ther oun life, draw others in hazard, and let him do as Julius Caesar did when Pompeyes cabinet, papers, and letters fell in his hands, he would read none of them, but threw them all in the fyre; and it might tend much to quiet, unite, and secure the minds of his peopple that he would grant a generall full indemnity and pardon.

Dangerfeild, on of the witnessses of the Popish plot, having been convict of perjury and falsehood in the Narrative theirof he published, he was ordained to be scourged and pillorized; and in the going to Tyburne on Francis, a counseller at law, came and thrust the point of his staff so far unto his ear that he dyed. (*Queritur*, If it would have been homicide if Dangerfield had been a malefactor sentenced to dy? for then he only anticipated the time: see notes on this quæstion alibi.) See for this Ant. Matthæus de Criminibus, p. 909, et seq. Francis is found

guilty, by a verdict of wilful murder, and the King is so just as to suffer him to be hanged.

On Captain Culpeper having struck Cavendish Earle of Devonshire, in the King's presence chamber, ther is a Court of Verge held on him, confiscting of all the officers and servants of the King's house ; who, conforme to ther law in such a case, adjudge his right hand to be cut of, (see our 173 act of Parl. 1593, in that case,) and fyne him 1600 lb., and imprisonment during the King's will. Cutting of the hand, at leist boring it, is injoyned by the 6<sup>t</sup> chapter Statuta Wilhelmi apud nos, in such a case.

The Spanish Embassador complains to our King that the English bucaniers, robbers, on the coast of Jamaica had plundered Vera-Cruiz ; the King promises to suppreffe thesse pirats. The English East India ships bring home sundry strange creatures, and particularly a man with a monstrosous child growing out of his breast, that eats, drinks, and evacuates by urine ; they are bid 500 lb. sterl. for him.

And to step a litle over seas, Amsterdam becomes so stubborne and elevat against the Prince of Orange, by the protection of France, that they refuse to pay ther proportion of the late tax imposed by the States-Generall, and threatens, if they be pressed, they will declare themselves a free port, and desert the union. At the court of France, with great solemnity, ware keiped the nuptials of the Duke of Burbon, son to Enghien, and grandchild to the Prince of Conde, with Madamoiffelle de Nantes, that King's naturall daughter by on Madam Montaigne ; he gets in tocher 400,000 livres, and the reverzion of all his father and grandfather's places. Vienna will not be behind in joy, for their is solemnized the marriage of the Elector Duke of Bavaria, with the Archdutchesse of Austria, the Emperor's daughter ; but ballances him against France, the Dauphin being married to his sister. Some whisper, that the Prince of Orange knew of Monmouth's coming over to invade his father in law in

England, which is very improbable; however, it seems the King thinks fit to passe over all the provocations given him by the Hollanders, seing he has renewed his brother's traitee with them, and figne da defensive league, leiving roume for the Emperor, the Spanish King, the Duke of Saxonie, and others who pleases to come in: for this is looked upon as a bar as strong to humble France as the triple league of Aix-la-Chapelle was, and tho ther was fears of a rupture with Holland about Bantam, yet it proved a very acceptable union as any thing the King could have done to England; for thir princes are ambitious, ther being of on religion does P. 112. not souder them. And it was reported, that France had the Duke of Crequy ready with ane army to fall in and take Namur, in case the Turk had prævailed over the Imperiall forces, and that it was Montmorency Duke of Luxembourg, who commanded Buda the last year, and passes as Serasquier Bassa this year, and was privily sent by the French King his master to affist the Turk, and that he was unknownen to the generality of the Turk. It was alledged by some, that Foord Lord Gray betrayed the Duke of Monmouth, and discovered his desigues to the King's forces before he came, and stood of without fighting, having the King's remission in his pocket, secretly sent him 3 dayes before; otherwayes ther was probability eneugh that Monmouth being stronger, might have surprized and defaited that part of the King's forces he fell upon.

On the 15<sup>t</sup> of August 1685, on of the King's yauchts arrive at Leith with tuo prisoners, viz. Mr. Bruce and Brandenburg the German, both tane with Monmouth, sent doun to Scotland to bear witnesse in the forfaulting of Monmouth, (by which his Jus Mariti and moveables, which will be 20,000 lb. sterl. of bygane rests, will fall,) and Andrew Fletcher of Saltoun; but in regard ther former libells boor not this late cryme of invading England, ther was new indytements raised against Salton in 60 dayes, and Monmouth's airs sicklike, (whosse daughter, Lady Anne, dyed at this tyme of the small pox in the Tower of London). Salton, before this attempt of

his in joyning with Monmouth, was in a fair way of being absolved, for Argile purged him. They say, what irritated him was, that the present King hearing he was at Brussells, sent over privily to the Marquis de Grana to caufe apprehend him ; wheirof Salton getting account, it forced him to flee in to London, wher he met with Monmouth's unfortunate company, and associat to him. *Supra*, page 109, we see how he leives England ; it was said that ship landed at Bilbo in Spain, wher he lurked incognito. The yaucht which brought doune his witnessses, did, by his Majestie's order (tho *supra*, page 111, that was demurred on a whille) carry up Sir John Cochrane, and his sone, and Collonell Ayloff, to make what farder discoveries they could.

*Supra*, page 110, we see the King raises mo forces, yet he disbanded some, wheirof the reason was said to be, that by this means he might get out some officers, and put Roman Catholics in ther place. However, to humor the English, he wisely published a very strict proclamation regulating the souldiers, that they should exact nothing but what they payed for, nor quarter in any man's house without his consent, nor threaten nor extort from any, under the paine of casheiring and farder punishment. The King forbears some time to lift the imposition the Parliament had granted him on tobacco and sugar, because the merchands of Bristoll, by a remonstrance given to him, undertook to make it appear that the said tax would doe his forrain plantations in America, and his customes at home, more hurt then all the profit he could have by it. Among other prisoners brought in from the west of England, Mr. Wade is on who was at first reported to have been dead of his wounds : he is declared fugitive in the King's proclamation in 1683, as being then fled for the plot. Nelthorp is also tane, and Spek, father-in-law to Trenchard, surrenders himselfe ; and Sir Gilbert Gerard, and the Earle of Mecclesfeild, are, upon suspition of ther accession, sent to the Tower. Nine of the rebels (amongs whom our

Fergusson was supposed to be on) fled in ane open boat to Amsterdam ; but the States have promised to apprehend them if they can, which is intimation eneugh to them to flee out of ther territories. The Bisshop of Bristoll being removed to Chichester, the King named Sir Jonathan Tre-lawny (who having bein in orders before his brother's death, fell into his estate and honor) to be Bisshop of Bristoll, and Doctor Whyte is created P. 113. Bisshop of Peterborough.

Supra, page 105, we see a conspiracy against the King of Spain, by a Frenchman and his wife, whom he had turned out from being master of the horses to the Quean, (who is the Duke of Orleans's daughter,) which did so inrage them at the French, that not only did the constable of Castile, seize on them, and execute them, but also all the French ware banisht the court, but only the Quean's confessor, hir cook, and on maid of honor. At the same tyme, Francis Garlandyne, Secretary to Sir William Sidney Godolphine, the King of Brittain's Envoy at Madrid in Spain, is killed in a quarrell by some Spaniards, who immediatly took sanctuary in a church : the Embassador demanded justice and satisfaction. The Duke of Bowillon and others, are also banished the Court of France, for writing defamatory letters against the King and his governement, to the Princes de Roche-sur-Ion, and Conty, who are assisting the Imperialists against the Turk. Letters from the East Indies boor, that the Hollanders ther had tane care to convert of the infidels their, to the Protestant christian religion, near 50,000, and had baptized them, and that they had 3 ministers, and ware sending more : so what the reformed religion loses of ground in Europe, it gains in Asia.

About this tyme, dyes the Lord Roberts, Earle of Radnor, a moderat presbyterian, who had been Deputy of Ireland, and presidint of the English counsell in the last King's tyme ; and with us dyes Leviston, Earle of Ca-lander, and Generall Thomas Dalzeell, very suddenly, who got a very splendid buriall after the military forme, being attended by the standing

forces, horse and foot, present at Edinburgh, and 6 peices of canon drawen before his herfe, with his led horse and generall's batton, &c. Some ware observing that few of our generall persons in Scotland had come to ther grave, without some tach or note of disgrace, which Dalzeell had not incurred, and instanced in Lefly, Earle of Leven, Lefly, Lord Newark, Generall Hamilton, Honburne, Montgomerie, Monro, Monmouth, &c.

In the end of August 1685, we had the grateful news that the Duke of Lorrain having left the siege of Newhauffell, to releive Gran, before which the Serasquier Basha had lyen doune to make a diversion, he had ther given the Turkish army, consisting of 40,000 men, a considerable defait, and had slain 4000 of ther janizaries, and so releived Gran. And at the same tyme, the Count de Caprara, and Duke de Croy, (whom Lorrain had left with 20,000 men, before Newhauffell) stromed it, and took it by force, committing a great slaughter and spoill, wheirby this toune of Newhauffell, which had groaned 22 years under the Turkish yoak, is now reduced to the Emperor's obedience. The French King sent over the Mareschalls de Humieres, (Feversham's uterine brother,) and La Ferte with the Prince d'Isingen, to complement our own King on his victorie, (*an ex animo problema esto.*) The King put all the demonstrations of honor imaginable upon Humieres, because, he said, the Mareschall de Turenne had assignd him to be tutor governor and master in the French wars, and had been very kind to him in breiding him: at his parture the King gave him a medall, set with many jewells.

The Portugall Embassador being to part from London, did very honestly insert a printed advertishment in the Gazettes, that if any had ought to claime of him or his retinue, of debt, &c., they coming to such a place should be satifseyed.

P. 114. About the 18<sup>t</sup> of August, the Duke of Queansberry, Hy Treasurer, by a call from his Majesty, goes to Court, the Chancelor being dissatifyed that he was not called also. This drew many of our countrymen to London,

some before him and others after him; as the Earle of Tuedale, Lord Maitland, Lieutenant-generall Drummond, Lord Braedalban, Lord Balcafkie, Lord Boyne, Lord Castlehill, Sir George Lockhart, Sir John Falconer, Hew Wallace, cash-keiper, Sir David Thoirs, and Mr. James Grame, advocates, Mr. William Moir, clerk, Mr. Sletzer, ingeneer, Captain Straiton, &c. The Chancelor followed to Court in September; (see ther animosities, *infra* p. 124.) The Chancelor, Duke Hamilton, and Duke of Gordon, (which tuo last ware also at London with Secretary Melfort,) aimed to have the Treasurer's office put in a commission to 5 or 6. The Treasurer thought to stop Generall Drummond's going up, by calling for his counts; but he had ane expresse letter.

At this tyme, we had ane account of a barbarous murder committed by the phanatique Whigs at Lefmahaigo, on Mark Ker, bailzie their, for affifting to take Rumbold: it was said a sone, freind, or servant of Rumbold's was with them, they called for his pistoll and whinger which he had tane at his disarming, and with the whinger rip't up his belly, and took out his heart, as Rumbold was used. See my law manuscript, anent the banishing my Lord Argile's 2 sones, the liberating the Cesnocks, Park Hay, Blarquhan; the executing of Mr. Archer the minister, and others, who had been in the rebellion; the continueing Mr. Spence, &c. On Misfris Lisle having resett Nelthorp and Wade, rebels, who came in with Monmouth, and fled to hir house after the defeat, and lurked ther till they ware detected by hir stewart, who told hir of hir hazard, she is proceesed before Sir George Jeffries, Lord Cheiff Justice, in his western circuit, and found guilty of treason, and ordained to be brunt, (I think not alive, but after strangling,) because the quartering of men traitors could not with modefty be exercised on a woman's body, and hanging or heading is too gentle. Hir husband was on of King Charles the 1<sup>st</sup> jury, and on his sones returne in 1660, fled to Switzerland, and was killed and assasinate ther at Laufanne, by 3 Irish men, who expected a great reward

from the King for this service, but he gave them none. Shee was a woman very disaffected to monarchy. On Beatman, a chirurgian, for resetting Sir Patience Ward, is like to run the risque of his life: so this cryme of resetting and concealling is like to prove as dangerous in England as it is with us; only they are securer, because they require it be wilfull and witting, which our judges of late take not so much notice to. At laft the Earle of Rotchester praevailled with the King, that hir sentence of burning should be remitted, and commuted into heading at Winchester. The Bishop of Bath and Wells did attend hir, moving shee might discover what shee knew of the plot; but shee dyed obftinate, and would not accuse others.

Their was at this tyme a talk of a great defigne in making our King Protector of the Spanish Netherlands, and that the King of Spain, as a pledge and security theirof, should give him Newport and Oftend, as cautionerie tounes. The United Provinces made such a stipulation with Queen Elizabeth, and King James was blamed as too honest in giving back ther tounes he had in guaranty, and our King is to supply them with men; this, with the league betuen him and Holland, into which the Emperor, Spain, and Brandenbourg enters, will be a check to France's swelling. Morosini, generall for the republique of Venice, with Seigneurs Delphino and Molino, give at this tyme a great defait to the Turks, killing Mehemet Baffa, and the Vifier, Calil Basha, and taking the city of Coron from them, the capital of Morea, which hes been now 200 years in the Turk's possession, and put 4000 Turks within the toun to the fword; becaufe, having hung out a white flag to capitulat and parley, and the Venetians sending of some, they sprung some countermines, and discharged 2 canons, and thereby killed sundry Christians, which treachery so irritated them, that they spared few or none of the Turks. Heir the Prince of Savoy, the Duke's brother, was killed. And to prove

P. 115. this summer to be fatall to the Ottomans, our valiant countryman, Count

Lefly, (of the house of Boquhayne,) does beat the Turks at the bridge of Efeck ; so that the Serasquier Basha, by a letter closed up in satin (conforme to the Turkish manner,) to the Duke of Lorrain, very humbly seiks peace, and conjures him in the name of God, to be content with the glory he hes got already, and to spare the effusion of any more blood, and the ruine of so many poor peopple, and offers to abandon Tekely, and to redeliver the Emperor's 3 hostages, and he strangles the Bassa of Buda, and some others, for first running away at the battell of Gran. He answered, a victorious army was not to be amused with such overtures as thesse, and that he would remember how he had used the Emperor. Count Tekely also sent to capitulat, but was dismissed without any hopes. Then Generall Shulzts assaulted Esperies, a strong toun, and having sent in ane officer to move them to surrendar, they shot him to death, and the governor put up 3 gibbets to hang thesse magistrats, burgers, or souldiers, who should move a yeilding ; this irritated so, that Lorrain sent a detachment of 8<sup>t</sup> regiments, wheron they surrendered. Then Poffega, the capitall of Sclavonia, and Agria, was besieged and blocked up by the Christians, and Cashaw surrendered to them.

At this tyme, the perfecutions of the French protestants, in Bordeaux and Guyenne, became very cruell ; for troupes of horse ware put on all thosse who refused to goe to Masse, who eated up all they had, sold ther wholle goods and furniture, and used all manner of tortures on them, except death : and if they be tane, ather concealling away ther goods or perfsons, their is nothing but present death. The Hollanders, hearing that some of ther natives ware so used, made a remonstrance to the French King, that they might not be treated as his other subiects, seing by the 10 article of the Marine treaty betuixt them, the Dutch ware to have liberty to goe or stay with ther wifes, goods, &c. ; 2<sup>da</sup>. They required him to give back the Prince his Principality of Orange. It may be God in this extremity (ther being only 6 families in Bourdeaux

not turned popish) may appear in behalf of thesse poor people;—yet, at the same tyme, the said tyrannous King is hectoring the Pope, and caused affix thir 4 theses on the Pope's Nuncio's door at Paris, 1<sup>o</sup>, That the Pope's authority only extended to Spiritualls; 2<sup>da</sup>, That he had no power over the Temporalities of princes; 3<sup>to</sup>, That he is subje&t to Generall Counsells; 4<sup>ta</sup>, That his declarations are not to be receaved unlesse they be approved by the Universall church; and which ware defended the nixt day, all the Archbischops and Clergie, at the King's command, being present. And for all this, ther are few Popes who have fitten in that chair better men then the present; who, for peace, hes offered Germany back the cup, and to think of Transsubstantiation as they please, &c.

The Judges in the English Circuit Court goe on rigorouſlie against thosſe who rose in rebellion with Monmouth; and they proceed with far greater severity then we; for not 6 have suffered on Argile's rebellion, but of the 1300 prisoners in England, ther is 331 of them hanged and quartered, 46 pardoned, as worthy of mercy, and 800 and mo ſent to the plantations.

At this tyme, in September 1685, dyed North Lord Guilford, Keiper of the Great Seall of England, and 3 ware candidats for it, the Marquife of Halifax, Turner, Bifchop of Ely, and Lord Jeffries of Wem, Cheiff justice; which laſt got it with the title of Lord Chancelor, and ſo heſ riſen from being Recorder of London to this eminence. Sir Edward Herbert gets Jeffries' place of Lord Cheiff justice, and Sir John Trevor ſucceids him as Cheiff judge of the principality of Chester.

Count Tekely in his negotiation cauſed offer to renunce the title of Soverain Prince which he had hitherto affumed, and that he would be content of a Generall's place under the Emperor by his commission, as was granted to the Governor of Esperies; but it was refuſed him.

P. 116. In September 1685, ther was a great outcry at Edinburgh againſt Sir Robert Sibbald, doctor of medicine, who had carried over Popiſh priests

to the Countesse of Perth, the Chancelor's lady, and persuaded hir to dy in that communion ; but also had openly deserted the Protestant religion himselfe, and abjured it in a Popish meiting, tho he had many tymes taken the Test, and so was perjured, and had made steps first from phantasticme and conventicles, to be ane hy flowen Church of England man, and now had landed in Popery :—whether this apostacy and desertion flowed from conviction or no, I shall not judge ; but ther is too much ground to suspect any who turns now, does it with a designe to gratify the King and get præferments ; and his manner of doing it was blameworthy in turning with so much pomp and ostentation, tho *Religio Medici* uses not to be very troublesome in the world. We ware also much stumbled with a litle book, then printed at Edinburgh, ather published by the said Doctor Sibbald, Robert Barclay quaker, or David Fairfoull the jesuite, or some priest, called, "Pax Vobis, or Gosspell Liberty ;" the wholle strain of it dryving at this, that, by the principles of the Protestant reformation, a man might beleive, without any challenge, what he pleased, for our rule of faith was the Scriptures not interpreted by the Pope and counsells, (as the Papists take them), but by every private man of sound judgement, so that if any think the Scripture inclines to Arrianisme, he may safely beleive, and whenever he changes his view of the Scriptures, he may as oft change his religion. The designe of the book is very knavishly contrived to bafle, disgrace and affront our reformation ; alledging Melan&ton maintained bigamy ; Calvin, that Christ despaired on the crosse ; Beza, that the Sacrament may be adhibite in other elements then bread and wine ; but his citations out of them are false and distorted. Being write dialogue wayes, it's easie to put no argument in his antagonist's mouth but what he can easily answere. Tho the Protestants doe not teach implicit obedience to the Churche's fence of the Scriptures, so as to impose approbation and positive consent to all its di&tates, yet this far we require union and communion, that wher we cannot give our assent, we are, for

peace's sake, to avoid schisme, to submit, comply, and be silent ; so that ther is a waft difference betwixt approbation and a naked submision, which is our duty in all cases wher the error is not fundamental, for then and their we are to separat. This is a submision of practice as to circumstantials, but not of judgement, for without praevious information and conviction, on cannot surrender, abandon, and give up that ; let all other contentions betuen us and the Papists cease, let all resolve and end in striving who shall be most holy, humble, and most obedient to God's revealed will. But tho we doe not maintaine infallibility, yet we have God's promise that the universall church shall never totally erre in fundamentalls ; (see more of this alibi.) Tho the author would passe for ane Protestant, yet it's most evident his designe is to shake and unsetle us in our foundation, hoping that our reeling will at last land us at Rome.

The Marquise of Hallifax (for speaking somewhat against the introduction of Poperie, as was surmized,) is dismift from the English Privy Counsell, and laid asyde ; which was the more noticed, that he was almost the sole person, in the House of Peers, who first choaked and opposed the Bill of Seclusion of the present King.

Mr. Cornish, late Sheriff of London, and a great follower of Shaftesburie, on the testimonies of Rumsey and Goodeneuch, that he was present in Sheepherd's house with Monmouth, Russell, &c. at Fergusson's reading the treasonable Declaration, is found guilty, and hanged, drawen, and quartered on the 25 day of October 1685 ; he dyed firmly denying the truth of the things sworne against him. On Mistris Gaunt is condemned to death, and brunt at Tyburne, for affilting on of the Western rebels with Monmouth to escape, and giving him money : tho this was Lady P. 117. Sophia Lindseye's guilt in conveying away Argile, yet all hir punishment with us was only some tymes imprisonment.

The Lord Jeffries Chancelor, among other good rules he made at his entry this was on, which the lawyers condemned much, that wher any brings in a

bill in Chancery to dismisse proceedings at common law, that he who passes from the action, or transfers it from the on court to the other as *temere litigans*, shall pay the dammages and expences the other on oath shall declare he hes been at. The Earles of Devonshire, Dover, and Thanet, lay doun ther commissions as Collonells to 2 regiments, because, it was said, they saw Popish officers mainly trusted in the army. The Earle of Aylefberry, but lately made chamberlayn of the King's house, (supra page 110,) dyes, and the golden key and white staff is given to Lord Mulgrave, who succeids him in that place. John Ayloff, tane with Argile in Scotland, (supra page 95,) being transmitted to London, was, in ther October sessions, brought before the Lord Cheiff justice Herbert, and, on the old outlawry against him, is condemned to be hanged, drawn, and quartered. Richard Nelthorp, also ane Innes-of-Court man, as weill as Ayloff, and bred up in the laws, being tane with Monmouth, was also execute that same day. Ayloff, if he had forseen this, might have escaped in Scotland, being keeped ther very laxly prisoner by Dumbarton's favor; he dyed composedly, praying for the King and the Protestant religion. Nelthorp was more fullen and quiet. Ayloff would have got his life if he would have discovered and delated others, (as our S. J. Cochrane does,) but he refused to indanger any for preserving his oun life.

In October 1685, the English Sessions fitting doun, the new Lord Cheif justice Herbert, in his charge to the grand juries, pitched upon 4 particulars: 1<sup>o</sup>, That perjury was turned very frequent, the nature wheir-of he opened up, that it not only consisted in swearing to much, as Oats had falsely done, but also in swearing to litle, and lesse than the truth, as Shepherd had done at Cornishe's tryal, (page 116,) in first denying that he held the candle when Cornish red the Declaration, till Rumsey fixed it on him; so this touches the conceallers of the truth when the are upon oath. 2<sup>do</sup>, He represented that ther was ane account of 6000 rebells in armes with Monmouth in the west at the last rysing, and all they had yet

apprehended, hanged, or banished, was only 2,500; that it wes not likely that many of the other 3,500 refiting had escaped out of the kingdome, and that they ware but a few yet who had been convicted of refetting, tho certainly they ware harbored; and especially, he doubted the city of London, and therfor he craved the constables might take up lists of any new intrants, or of any who ware absent from ther houses at that tyme, and so may be presumed to have gone into Monmouth then: this is taken of our acts of Privy Counsell and searches, wheirof the King and thosse about him are much inamoured, as the readie and most expedite way to discover lurking fugitives. 3<sup>to</sup>, He recommended the putting the acts against separation from the Church in execution, and he lookt upon it as remarkable, that since it was done ther churches ware beginning to fill much better then they did. 4<sup>to</sup>, He reprooved them for the increase of beggars; that a man could not stand on the street for them; and yet they robbed and broke houses in the night.

In the same moneth of O<sup>t</sup>ober came furth that cruall Edict of the French King's against his Protestant subjects, wheirof I have the double both in French and English; shewing his father and grandfather Henry, had given them priviledges by the Edict and Pacification of Nantes in 1598, (see this Edict of Nantes at great lenth in Du Serre's Historie of France, anno 1599,) and of Nismes in 1629, because they ware imbroiled in civill wars; but he now injoying a profound peace resolvved to have all P. 118. his subjects of on religion; and therfor he cassed, annulled, reschinded, and revoked all thesse edicts and ther priviledges, and discharged all publick or private exercise of that religion, pretended reformed, under the pains of death, (which is borrowed of our acts of Parliament against conventicles as on would think); and that all the ministers voyd the kingdome within 15 dayes, otherwayes to be put in the galleyes; but if they turne Catholicks, then they are to get a third more then ther former stipends, and ther reliets to enjoy it during ther viduityes; and if they will turne

advocats, then they shall be admitted for the halfe dues that others pay. Therafter he declared this did not extend to strangers Protestant, but only his ounе subiects; at which restriction the Popish clergie ware displeased. For a tyme, onlie, he hes excepted from this rigor the Duke de La Force, the Mareschall de Schomberg, Mr. Rubignie, Mr. Du Quesne, and 2 or 3 moe of the nobility whom he hes use for in the war. He caused search the English packet boat, *contra ius gentium*, and some of ther merchand ships, and took out of his Protestant subiects who ware fleing from his cruallty: hee'l nather let them goe nor stay, as Pharaoh did with the Israelites; and the fugitives he charges to returne, and they not daring to obey he confiscats all they have left; he declares whatever Roman Catholick shall refest or harbor any of them they shall be condemned to the gallies; this is like our Intercommoning. (Vide *infra*, more, p. 123.) This was look't on by all sober Christians as a proud decree, like Senacherib and Rabsheka's boasting the living God; and that the steps by which his perfecution had advanced ware very remarkable, he having at first promised that he would use no force nor severity, but only moral suasion to convince ther consciences of ther errors; but now he hes broke his word, and fallen to dounē-right violence, tho they ware in no armes nor rebellion against him: this makes some hope that ther extremity may prove God's opportunity of stepping in and rescuing the litle remnant left as a firebrand out of the flame, tho near 200,000 people throw fear and compulsion, have apostatized and deserted. Above 700 waggons full of thir miserable Christians escaped in to Geneve, and many fled in to the Pope's tounе of Avignon; and the French King redemanding his subiects, the Pope's Legat ther answered, he had orders from his Holiness to protect them, and that such cruall usage was not the way to bring them back to the bosom of the visible Roman Church. Tho the present Pope, Innocent the 11<sup>th</sup>. (Udescalchi,) be a good man, yet his espouſing the Protestants was thought to be in humeur against the

French King, who opposed him in other things: yet the French Embassador tells the Pope, his master had now wrought that glorious work of having but on religion in France, at leift onlie on publickly professed and exercised; so the Pope's protecting them seems only to be a feint and a sham.

Supra, page 116, we see Halifax removed from the Privy Counsell; ther are other 4 who ware of his opinion, viz. the Duke of Ormond, the Earle of Bridgewater, the Vicount Falconbridge, and the Bisshop of London; thinking ther presence was not very gracious to the King, nor to Rochester the Treasurer, nor to the Popish party, they retired and absented themselves likewayes, which produced bad effects in the following sesson of Parliament; infra, page seq. The Bisshop's name the King cancelled and razed out with his oun hand.

About this tyme, we had account of the taking of Count Tekely, who, finding the Imperiall forces prevail, he sent to the Baffa of Great Waradin for affistance; who invited him very humanly to come under his protection, and he, doubting nothing, came with 500 horse, he and some few is let in within the garrison; but Tekely is that same night bound in chains, and sent away prisoner to the Grand Seigneur to Adrianople as the occasion of the war, and to be a sacrifice to ther offended Mahomet, who had suffered them to be bet thesse 2 or 3 campaigns. Then he offered the command of the forces to [Petrozzi,] who was with Tekely; who feimed to accept it, but, as soon as he was out, told what had happened, and went straight to Cashaw, and persuaded them to enter themselves in the Emperor's service, which they did. The Princess Ragotzi, Tekelie's lady, was much affected with this disaster. It was reported, Tekely ather dyed by the way, or was strangled, and his skin flead of and stufft with straw, and sent to Constantinople, to be showen to the peopple as the origine of ther trouble, who condemne and approve only *ab eventu*; but this proved false, and the Turks keiped him alive then, and gave him 7000

men, but a bashaw waited on him as a spy, and, if the Emperor would make peace, they ware content to sacrifice Tekely.

With us the observation of the 5<sup>t</sup> of November was altogether forgot, P. 119. (see the steps of it in my Law manuscript,) but at London it was never kept with such solemnity as this year; which irritated the Papists so, that the very nixt day they obtained ane act of the King's Privy Counsell, that no bonfires should be put on heirafter upon any solemnity whatsover, without the King's speciaall licence and allowance, (which will not be granted to the 5<sup>t</sup> of November,) because under that pretence ther may be ryots, convocations and tumults, and the city is indangered in the strait lanes, with the multitude of ther fyreworks. About the same tyme, the King directs a letter to his Privy Counsell in Scotland, (see it at the 12 of Nov<sup>r</sup>. in my Law manuscript) allowing Papists to be Commiffioners of his supply without taking the Test.

The English Parliament met again on the 9<sup>t</sup> of November 1685, by his Majestie's speciaall call; wher the King tells them that, in this late invasion, ther was a great discovery of the insufficiency of the militia to suppress risings, which had moved him to double the standing forces had been in his brother's tyme, (for he will now have upwards of 22,000 men in armes;) and that this, with the desigues of ill men yet working, required a great charge, and therfor he hoped they would grant him a suitable supply to defray it; and that he had made use of some to be officers in his army who ware not qualified according to the laws (being popish,) but to deall plainly with them, he would nather expose nor desert them, having had experience of ther loyalty, &c. The 2 Houses having retired, the Peers ware induced to thank the King for his Speach; but the Commons demurred on it, they liked nather the on part of the Speach nor the other: a standing army they ware not for, but ware content to fall upon expeditents to render the militia more serviceable and usefull; and, as to Popish officers, they ware willing to passe them a pardon by a<sup>t</sup> of Parliament for

ther bygane actings, but would have them removed in tyme coming. It was put to the vote, whither a Supply, or ane Addresse against Popish officers should goe first, and ther was 184 for the Supplyes being first tane in consideration, and 185 for the last, so it carried only by on vote. The Addresse was formed in thir terms, and passed almost unanimously, thanking his Majesty for the great care he took in suppreffing the late rebellion, and that he would be pleased to remove thesse fears and jealoufies his peopple had of the growth of Poperie by laying aside thesse Popish officers. Then they paſt a ſupply of 700,000 £ sterlinc, to be collected of the Eaſt India wares, the win and brandee, (for they doe not willingly burden ther lands with ceſſe;) this the King did not value much, he being a great trader, and ſo his oune ſtock was to pay much of it himſelfe: they also voted, that the title of this bill of ſupply ſhould not be for paying ane army, but only for the King's affairs.

The Lord Jeffries, Chancelor, brought in a bill to the House of Peers for reſchinding the Test made in 1678 againſt tranſubſtantiation, and for allowing the Popiſh lords (who are 17 in England) to come and ſit in the House of Peers, which they alledge is ther birthright, and cannot be taken from them; and, ſeing our protestant Westminſter Confefſion of Faith declares diuinity of religion does not annull the Magiftrat's right, nather ſhould theſſe laws and bars be put to ſeclude them from ther priviledge of fitting in Parliament, (tho, if they had once the power, they would debar and incapacitat the Protestants.)

P. 120. The King argues thus: the English Test was made againſt the Papiſts by the Parliament in 1678, in the tyme of Titus Oats's plot; and that being now found to be a forgery invented by his ennemis, to ſeclude him from the croun, he thinks the Papiſts ſhould be ſo far redreſſed as to be put in the ſame very freedome they ware in before that tyme, for *sublata cauſa tollitur effectus*. Upon this motion of the Chancelor's, many of the nobility and biſchops got up and ſhewed great reſentment and indignation, clouds of them ſpeaking at once; and he reprooving them, as

violating the order and forme of Parliament, on told him they knew what decency became a Parliament, as weell as he knew the King's Bench, reflecting on his rise. The peers, who used alwayes to be most tame and obsequious to ther Kings, turned very giddy and discontent in this Parliament; what had offended and allarumed them was the King's turning the Marquis of Hallifax, Bisshop of London, &c., (de quo supra p. 118,) of his Privy Counsell. Thosse who manadged the Protestant cause most, ware Annesly, Earle of Anglesea, Cavendish, Earle of Devonshire, with Hallifax, Bridgewater, Falconbridge, Mordant, Bisshop of London, (who declared his adhaerance to the Protestant religion, in name of the wholle clergie,) and Doctor Turner, Bisshop of Ely, (tho' of this King's oun inputting;) only the A. Bisshop of Canterbury and Durhame ware looked upon as lukewarme, and such as might be induced to comply with the King's desire. The Presbyterians took this honesty of the Bisshops in so good part, that many of them went and communicated with them. What displeased the Peers is, 1<sup>o</sup>, That it's the temper and genius of English Parliaments to begin fair, and to be fond and kind to ther new Princes, but ther concord uses not to last long. 2<sup>do</sup>, It was publickly knownen in London, that a Nuncio or Vicar-generall was come from the Pope to the King at London; and that our King again was sending the Earle of Castlemain as his Embassador to the Pope, and allowed him a noble retinue of 60 persons, wheiras ther [had] not been such Embassies passing betuen Rome and England, never since the reigne of Quean Mary thesse 130 years; and having seen the French Gazette printed at Paris, in the end of October 1685, I found it boor this particular from Rome, that his Holinesse was displeased with Cardinall Howard's conduct, who had divulged that the British Iles would presently returne back to the bosome and obedience of the Roman Church, and that the Pope had sent a Legate to London; and he was diffatisfyed this should have been spred abroad so soon, till once the King had got his Parliament to consent to it. In the house of Peers

ther ware od speaches: ther religion (on said) was like the banks in Holland which bridled the sea; once make a breach in them, all ther hands would not be able to stop the breach and inundation. Some said, the French King would not have ventured to use his Protestant subjects so ill, had he not seen that England had a Popish King for ther head, who would not resent it. A 3<sup>d</sup>. took the boldnesse to say, that the King's promise for ther religion was not sufficient to rely upon, and that he had not renewed it to them in his Speach at ther last doun fitting. But it's observable that the King's declaration, emitted on his brother's death, (which is all the promise founded on,) only promises to preserve the governement of the Church of England, because he had found ther bischops of loyall principles, (now that same governement is also under Popery;) but ther is P. 121. never a word of his giving security to prote&t the doctrine of the Church of England, which is the mayne point. The Bischop of London went to the King, and fell on his knees, intreating him to quiet and secure the minds of his people, in relation to ther apprehensions anent the danger of ther religion; and they say, the King turned on his heel, and answered, if they would not be content with what he had promised, he would satisfie them no farder.

As for the Commons, the King can never expect to get a better constituted House of Commons, for greit pains was taken in the electing them, and they are all men almost pricked doun by the King himselfe as his freinds, and ther are about 150 of them, his defenders and penfioners: so that it behooved to be [a] very extraordinary demand of the King's that startled them; and the truth was, many loyall subjects wished he had not scrued the pine so hy in his Speach, as he left no honorable roume for a retrait to himselfe, if the Parliament should not grant his desire; and the Quean, and his Italian counsell, with his priests, and Chancellor Jeffries, ware blamed for it. The Commons having brought up ther addresse against the Popish officers, he gave them a severe check and re-

buke for it, that he did not expect so unduetifull ane addresse from them ; but, however, they should not provock him to be ane ill King. His brother, in 1672, granted a generall Indulgence, including even the Papists, and told his Parliament, at ther doun fitting, he had found the good effects, and would not part with it, yet they forced him to recall it ;—this King is of harder metall then Charles the 2<sup>d</sup>. was, but it would not do with him. On ther returne back to ther house, on Mr. Cook, a lawyer and captain, one of ther members, had this expreſſion, that they ware free borne English men, they ware not to be heſtored and frighted out of ther laws, liberties, and religion, with big words : thir ware reſented as a reſlection on the King, for which misdeemeanor, the Houſe ware ſo loyall, that they, by ther oune authority, committed him to the Tower ; but his way of liberation was remarkable. The nixt day, the Parliament being prorogued by the King, and Cook hearing of it, he called for the lieutenant of the Tower, and craved to be ſet at liberty, in regard, by the King's prorogation of the Parliament, all that they had done was abſolutly null, and conſequently his imprisonment was ſo ; and in regard he delayed to ſet him at liberty, he took a notary and proteſted againſt him, that he might be liable to him at the rate of 5 lb. ſterling each hower after that, for false and wrongous imprisonment, conforme to ther law ; wheron the lieutenant having taken aduife, he was forced to let him goe free.

The benches ware ſetting up in Westminſter Hall, wher the Peers fit, for trying Grey, Earle of Stamford, and the Lord De la Mer, Booth, for being upon the treasonable conſpiracy with the Lord Russell, &c. ; and the King had given a commission to the Lord Rotcheſter, Hy Treasurer, to be Hy Stewart in his tryall before the Houſe of Peers, and the 21 of November was ſet as the day. But the King was ſo irritated with ther free diſcourses on the 18, that he took reſolution that ſame night to prorogue them ; which he did on the 19<sup>t</sup> in the morning, (which was knownen to few,) having come to the Houſe of Peers in his robes, and the croun on his head, and called

up the House of Commons and ther Speaker, and so prorogued them him-selfe, to the 10 of Februar nixt: for he speaks all himselfe, and delivers his answers, to take of the odium from his Chancellor. This prorogation took all of the fyle, to the very act of the supply of 700,000 lb., which did not so much as passe. The members of the English Parliament are observed to be very calme when out of Parliament, but seldome doe they return better natured then when they parted, but rather with 7 devills. On the prorogation, the benches were tane doun, and Stamford remanded to the Tower, wher he most ly till the nixt sesson of Parliament, for he cannot be tryed now at the King's Bench, being once tabled before the Parliament. The rich men in the city of London are very discontented, and so renders trade very dead, for the men of most wealth and money ther, being il affectioned P. 122. to the present governement, keep up ther money, and will not let it circulate in trade, and care not for a whille to lose ther interest and pro-fite. It's hard to know what measures the King will follow now: ther is but on of 2, ather to yeeld to his peopple, (which the Papists will never suffer him to doe with ther consent,) or else to rule at his oun hand, and use what persons he pleases in publick trusts, especially in his army, tho they be incapable by law, and in so far to dispence with the standing laws; or being now disappointed, if he will prosecute some of the heads of his opposers, and convi&t them as guilty of the plot, and by executing them before the 10<sup>t</sup> of Februar come, make the rest the calmer. However, it is our duty to pray God to dire&t him to observe the laws and gain the hearts of his peopple. Before the Parliament sate he acquainted Hallifax with his designe of taking away the penall laws against Popery, who dissuaded his Majesty and told him it would not frame, wheron he was discarded. It cannot be denied but Hallifax did great services to the King, for by his reason and policy, he broke the neck of the Bill of Seclusion against the present King in the House of Peers, and buckled with Shaftesberry theirin; but princes deall not with ther subje&ts as on man does with another:

subiects most not pretend nor claime to merit at ther princes' hands, for when you have done all you can for them, they think it but your duety, and that they are not oblidged to you for it, and if he make on wrong step, all ther former righteousnesse is forgot. And heir they railled on Hallifax, as on who was of phanatical principles, and on who had writ a pamphlet in favors of the Trimmers; and yet the Earle of Sunderland, at the same tyme, is advanced to be presidient of the Privy Counsell, and continues secretary beside, because he is now declaring himselfe popish, tho he was, the tyme of the Bill of Seclusion, this King's ennemy, and a promoter of that bill. *Ille crucem tulit praetium, at hic diadema.*

On the rising of the Parliament, it was reported, that the Earle of Devonshire had indyted Philip Howard and other popish officers of the army for breaking ther a&s of Parliament, and accepting a public trust without the Test; and, for securing them, the King had ordained ane indemnity to passe his broad Seall, not only for bygane transgressions, but a remission and allowance to act in all tyme coming, notwithstanding the laws with which he dispences as to this point. If the King ware left to his oun temper, he is very moderat and generous; for they tell, that his preists and confessors and seminaries, come from over feas, ware going to consecrate Windsor chappell, and to introduce some new modes and ceremonies theirin, which the King refused to allow, saying, the Protestants who used it last ware not Pagans, but Christians as weill as they, differing only in some modes of religion; but they, maintaining us to be haereticks, esteime our temples as ill as Mahometan or Turkish mosquos, and so to neid new consecration. The King, speaking of our Scots Test, said, he saw a reason why the Roman Catholicks refused it; but he could not understand what name to give thesse men who called themselves Protestants, and yet refused it, or in what classe to rank them, for such seimed to reserve a tacite power to themselves to rise in armes when they should find themselves in a posture.

Ther was once a reslove at Court, that our Scots Parliament should be called, by anticipation, to sit before the English dyet of the 10<sup>t</sup> of Februari, to abrogat the laws against Popery, and so to cast England a good copie and example, as we had done in 1681, in declaring the right of succession; but this thought was afterwards laid asyde.

P. 123. Grame, Lord Preston, is made master of the King's wardrobe. Item, the Lord Brandon Gerard, eldest son to the Earle of Meckelsfeild, (his father being declared outlaw and fugitive for not appearing for treason,) is brought to his tryall, and found guilty of accession to the conspiracy, on the oaths of Rumsey, Gray, Keeling, &c. : he excepted against Rumsey and Gray that they ware infamous, and that Rumsey had perjured himselfe in 2 contrary oaths in the tryals of Russell and Cornish: (supra p. 116.) He is found guilty, and sentenced to be hanged, drawen, and quartered; but was first repreived, *fine die*, and then is pardoned by the King, because of a promise he had made, that he would forgive him all preceeding Monmouth's rebellion, if he was not in it; for the King is a severe observer of his word. So that report did not hold true, that he was convict on a letter wrote by him, and now produced by Gray, inviting the Duke of Monmouth over. The King was resolved, in this last Parliament, to have passed ane a<sup>t</sup>t that ther Habeas Corpus write should not liberate in treason, that the King might not be forced to insist or divulge his prooffs ther, in cases of treason, before he ware ready, which in experience he had found to be prejudiciale. The Dutchesse of Portsmouth hath caused hir sone, the Duke of Richmond, and Lennox, on of our late King's naturall sones, recant the Protestant religion, and embrace Popery openlie in on of the head churches at Paris.

In November 1685, dyed William Cochrane, Earle of Dundonald, aged 80; who, from small beginnings, had raised himselfe to great wealth and eminence, and yet saw misfortunes come double on his family by his eldest sone's death, and his 2<sup>d</sup> son Sir John invading his country, tho the

King hes pardoned him. He was under a bad report, as a corrupt man, and otherwayes.

On the 4<sup>t</sup> of December 1685, dyed Mr. Andrew Cant, minister at Edinburgh, and Principall of the Colledge theirof; a stout ennemy of the Papists and Arminians, whom he confuted with much learning and acute-nesse, and was therfor litle or nothing regrated by the Papists, who rejoiced at his death. The toune counsell of Edinburgh called in his place Doctor Monro, Professor of Divinity at St. Andrews. The Bisshop of Edinburgh delt for his brother, Mr. Robert; but it was answered, he was a layman, and, since the fundation of the Colledge of Edinburgh, ther primars have alwayes been churchmen. Some proposed to call Monfieur Alix, the French minister at Charenton, who was fled to London; but it was objected he wanted our language, and they resolved to have on who could also preach in the Hy Church. The Bisshop objected, that he would not give him collation to be a minister of Edinburgh, for that was plurality of benefices; they told him, he neided no collation from him as Principall, and so he collated him only to on benefice. However, they delayed his entry till the Chancelor came home, in the end of December; and having taken his consent, they admitted him then into both the offices.

On the 15 of December 1685, dyed Sir David Falconer of Newton, Lord Prefident of the Seffion, of 5 days sicknesse: see the passages of it in my 8vo. MS. of Seffion Occurrents, page 94, et seq. The King nominats Sir George Lockhart of Carnwath, advocat, to succeid him: see my folio Law MS. anent this and the candidats.

At this tyme, we heard the persecution in France was grown to a great height, (vide supra, p. 117 & seq.):—On of the converts from Protestantisme taking the sacrament from the priest, demanded the cup, which he refused as having no warrand from his ordinar to grant it, the convert profanely takes the hostie out of his mouth and throws it on the ground, saying, that should not goe in his belly, seing they refused him the wine; P. 124.

he is seized upon and sentenced by some delegates commisionned from the King to have his lips pared with a razor, his gums, and all such parts as had touched the body of Christ, should be flitted of, with his fingers and nose that touched and smelled it; a barbarity more cruell then any standing upon record in the martyrologies of the heathen persecutions. Ther was also a person of quality, who had changed his religion, when he was dying the priest offered him the communion, he refused it, telling, he had obeyed the King and quite his religion to save himselfe from banishment, but he was not bound to follow him in things he knew ware of no worth. After he is buried, being delated to the King as a relapse into hærefie, he caused deterre his corps and throwen them to be eaten, and what the irrationall beasts refused to eat he burnt it. That he may not stumble them altogether, he has caused on Father Anelot [Amelotte] to translate the Bible into French; and it being printed, he has distribute many 1000's of them amongs his converts, in place of ther Geneva version. We ware allarumed with ane apparition seen above Paris of men and weemen incircled with fyre, singing audibly that vindictive 94 Psalm. By this persecution France is much depopulat, many officers leive his army, and trade and commerce decayes a 5t it was.

Our countryman Dr. Gilbert Burnet having, out of curiofity, stepped out of France over the Alps into Italy, and visited Rome and the Pope, and viewed Naples, they give out that he has declared himselfe Papist; which, if true, is a great scandal to our religion, he having writ so much for it; others think that he may dissemble a change while he is ther, to preserve himselfe from stobbing or poisoning. But it's a great injury to raise this report, if it be false; as it is now found to be.—The report of Dr. Burnet's being popish was most false.

Mr. Bateman the chirurgian is hanged, in December, for being with Monmouth.

On the 24 of December 1685, and the 28 of the same moneth, arrived

our Chancelor and Hy Treasurer from Court ; so I shall shut up this year with the traverses of ther negotiations and accusations on against another. Having united ther forces to defait the Earle of Aberdean when Chancelor, they no sooner prevall but in a few moneths they fall into jealoufies and misunderstandings amongs themselves ; which took principally rise from the Treasurer's proud and hauty carriage, that would have all depend on him, tho the Chancelor was the first minister of state ; yet he commanding the purse drew more followers than the Chancelor, who had only ane empty purse carried before him. The Chancelor crouched long, and willingly acknowledged he owed his place and all to my Lord. Treasurer's favour ; but his brother, secretary Melfort, having gained much both on his prince's ear and humor, he set up for himselfe, and would not receave instructions from the Treasurer, saying, he was long enough under paedagogie and subjection when he was his Treasurer depute. And so he infused, by his ounē brisknes, some spirits and courage into his brother, and they began to act independent and negle&t the Treasurer ; which he, not able to indure, *hinc illæ lacrymæ*, each of them falls a censuring, ripping up, and accusing the actings of another, and obtains leave in August last to goe up to Court ; which drew up such a troup on the 2 fydes, that ther was above 200 Scots noblemen or gentlemen ther upon the on fa&tion or other, which displeased the King exceedingly, beside the waſt summe, calculated to more then 60,000 lb. sterl., that they drained Scotland of, and the bad copie they did cast the English by ther discording amongs themselves : it began in the naming a commiſſioner to our Parliament, wher (if Midleton had not preveined) Melfort had disappointed Queansberry of that ayme ; but yet, fearing the bigarre incertainty of fortune, it was so contrived, that his commiſſion lasted only for the first fession of Parliament. Then Queansberry, to tach and affront Melfort, as if he and his servant David P. 125. Lindsay ware unfit and understood not what belonged to a secretary, all the signators and wryts passed in Melfort's weik, he quarrelled them as

ather informall in style, or prejudicall to the King's interest, and returned some of them back again. This picked Melfort exceedingly, and put him and the Chancelor to seik out quarrels against him. They charged Queansberry that he starved the King's affairs ; and bestowed nothing on intelligence in Argile's invasion ; and that he refused or delayed to advance money to my Lord Dumbarton, then generall, on his preecepts from the West Country, in that exigent ; and that fundrie rebels ware harbored on his ground ; but I think they lurked ther ather out of malice to draw him in a Premunire, or else thinking they would be secure ther, because none durst challenge them for fear of bringing him as master of the ground upon the stge, and in hazard. 3<sup>to</sup>, That he keiped the last Parliament in June 1685, a weik current after he had got his Majestie's order to raise it ; and that he had disuaded ane Indemnity. 4<sup>to</sup>, That he under hand had given advertiſhment to on Mr. William Weitch, a declared traitor, to flee out of the way. The Clerk Register, after the Chancelor was gone to London, and had given stri& orders that none should have acces to Mr. John Weitch, his brother, without the King's order, caused examine Mr. John, and he purged the Treasurer ; wheron a letter was sent by Athol from the Privy Counsell to the King, drawen by Tarbet, shewing what hard case his Majestie's officers of state would be in, if they ware suffered to be libelled and arraigned : (for Sir John Cochrane had touched Tarbet himſelfe, and accused him with correspondence with Melvill and Monmouth). This was resented by the Chancelor and Melfort, and they obtained a rebuking letter from the King : (see all this at length in my folio Law MS., Sept. and Oct. 1685.) Item, the Treasurer had suffered the Toune of Edinburgh's count and reckoning for ther common good to sleip. Queansberry charged Melfort that he had tane a bribe from Rot. Milne and the other customers, to get them a pcept on the Exchequer for £20,000 Scots, as pretended losſe they had by the fyre at Leith, in August 1682, which consumed ther custome office, ther pretending many

of ther tickets and bonds ware brunt ; wheras Charles Murray, on of the said custumers, discovered to the Hy Treasurer that they had no losse at all, but got that 20,000 lb. of profit from the King, and that his part of it was 5,000 merks., and which he was willing to give back again. The Treasurer said, he was a knave somewhat honeste then the rest. The Treasurer had upon his syde the Earle of Rotchester, the King's brother in law, and Treasurer of England, and Midleton and Hallifax ; so that the Chancelor, fearing he might be at a losse, did pull of the mask and discovered and avowedly ouned himselfe to be Popish, from which tyme his favor and court increased, so that he crostled and contradic<sup>te</sup>d the Treasurer in all things he proposed, and particularly in the Provestry of Edinburgh ; for the Chancelor and Melfort opposed Abotshall's nomination to that place on no other head so much as that he was proposed by him ; however Abotshall had the good wishes and inclinations of the peopple, that he might be ther Provest. It gained Queansberry some reputation with the English, that on day, having carried the fword before the King to the Popish chappell, after he had laid it doun, he came furth and went to the Protestant chappell ; and, to weary the Chancelor, he entred in a long winded treatie of marriage for his sone the Lord Drumlanrick, with a niece of E. Clarendon's, and a relation of the Lord Clifford's, and delayed it very long to get the pretence of ane earand to stay even to the 2<sup>d</sup> of Dec<sup>r</sup>, which was his oun marriage day. And during all this time, our great men ware not in speaking termes, and it was probably thought that the Chancelor (whosse faith had saved him, as Hallifax wittily sported,) P. 126. and the Popish party would have totally ecclipsed Queansberry, had it not been for the rub the King met with in his demand from the Parliament of England, refusing to dispense with the laws against Popery, (de quo supra, page 121.) But when this Remora happened, it moved that party to new measures, so as not absolutely to disoblidge Queansberry and the Protestants who ouned him ; yet they prevailed so far with the King, as that he

told him he had done very ill things, tho he gave him a pardon and exoneration for all. The Dukes of Hamilton and Gordon ware also great prosecutors of it, the last on the head of religion, and the first for his interrogating Tarraes anent him, (de quo alibi.) Tarbet also, for adhiering to him, got his large share in the misrepresentations passing; for, tho he was mainly instrumental in the secret committee, to get Sir John Cochrane repreived, from ane itching curioſity to hear his discoveries, yet he was one of the first whom Sir John branded. To load the Hy Treasurer, Claverhouse and Balcarhouse ware ſent for to London, and the King was ſo ill ſatisfied with what the Treasurer had exacted of Claveris, that he ordained the Treasurer to repay it. For ingratiaſing with the King, who loves money, the Hy Treasurer proposed 16 articles for raiſing money of Scotland, as; 1<sup>o</sup>. That he might get 10,000 £. ſterling of Edinburgh, for giving them back ther ſummer ſeffion. 2<sup>o</sup>. Greit ſummes from the other Burrows for ther malverſing in the common good, and for ther impositions on ale and bear; and ſuſhlike methods, as Rushworth, in the end of his 1 tome of Hiftorcall Collections, tells, ware proposed to King Charles the I. for bridling the impertinency of Parliaments. Melfort opposed this, and ſaid, this ware to put Scotland ſo in his reverence, that he wanted nothing but the croun; and that it was like the counſell of Rheeboam's young men to get his people's purſes, but loſe ther hearts and affeſtions. Theſſe who would excuse the Chancelor's apostacy at this tyme, (a change now being ſo groſely impudent) they ſay, he was long ago a Papift, to ſhun the reproach; but this is a very bad excuse, to make him ane Atheiſt all the tyme he was ſweariſg the Test, and yet believed the contrare religion to be truer: but this is a forgerie, it being nothor that none was a greater mocker of the Pope and that religion on all occasions, yet now he is ſo bigot on it, as Collonell Whytfoord a papift obſerved, ther new convert would jade the Maffe, he cauſed ſay it ſo oft; but *omnis apostata eft ſuue ſectae oſor*; and, to expiate and take off ſuſpicion, he moſt be a ſlave to

the new on: some thought, without a remission from the King, he might run the hazard of forfaultor, for the hearing of Massé and resetting Preists is declared such, A& 120 in 1592, A& 164 in 1593, A& 193 in 1594, A& 5<sup>t</sup> in 1609, and A& 106 in 1581 *in fine*, wher the King may not dispense with ther laws. But the Chancelor and the rest of them expect the rescission and annullation of thesse A&s. They ware so childishly fond, that, on Christmas day, the Chancelor rocked a child in the cradle, in memorie of our Savior: this ceremony is not used by the French Romanists. See more of thir fopperies, *infra*, page 130. He got from the King 8,000 lb sterling, with which he bought altars, candlesticks, preists garments, and other ornaments and popish gauds for erecting the Chappell in the Abbey, and brought them home; and, tho ther be A&s of Parliament for seizing such trash, yet our customers past them.

On the 15<sup>t</sup> of Dec<sup>r</sup>, President Neuton dyes, and Sir George Lockhart succeeds him. See it alibi.

P. 127.

## ANNUS 1686.

IN the beginning of this year, our Chancelor having made his first appearance in our Privy Counsell, after his declaring himselfe popish, it was expected that our Bischops or other statsmen should have entred a modeft protestation; but it was not done: see of it in my law MS.; for the King, to secure him, had given him a letter, dispensing with his taking any more the Test. Likeas, he had prevailed with the English judges to give ane opinion, that the King could dispense with the paenal laws against papists; wherupon the King iſhued out his proclamation, dispensing with theſſe laws, as to theſſe named with a *non obſtante* to the statuts. And did, by another a&t, declare, he prorogated the Parliament from the 10 of Februar to the 10 of May, and with this proviso, that they ware not to meit then ather unleſſe his affairs ware preſſing: this was be-cause they ware yet in no better temper than before; but the statsmen gave out that it was to ſhun the Venetian Embaſſador's memoriall, crav-ing that the King, with the aſſeſe of his Parliament, might break of the trade he had at Conſtantinople with the Turk; which he ſhunned as pre-judicialeſſ to himſelfe. By the taking the Lord Gray, ther being now an-other witneſſe beſide the Lord Howard to depone againſt Mr. Hampden, formerly fynd and incarcerated for 40,000 £. ſterl. for a miſdemeanor, he is pannelled for the treafoneable conſpiracy with Shaſtſbury, and carries himſelfe ſo modeſtly, that throwing himſelfe in the King's will he obtains his pardon. Then Booth Lord de la Mer, the loyall Booth's

fone, is brought to the pannell, and many witnisses depone against him; yet he leads others who clearly prove alibi, that he was not at London the tyme of that treasonable consult, for joyning with Monmouth, they make him present at, but that he was in the country; wheiron the Jury affoilzies him; and Saxon, on of the witnessies, is proceſt for perjury and *scandalum magnum*; but he offered to verify what he had deponed. The King was disatisfyed he escaped, and Leg, Lord Dartmouth, being on of the inquest, and having said, the Quean misgoverned the King and the nation by Italian counſells, he was discourteſt. And it's very remarkable that ſcarce a footman, now this 12 moneths, ſince the King's aſcent to the throne, heſ turned Popiſh in England, which gives them a very bad impression of our forwardneſs; and it ſcandalized them mightily that our Chancelor had avowedly turned Popiſh, and yet keipt his place. Yea, our miſtiers of Edinburgh ware diſcharged to medle with applicaſtions in ther ſermons; and because Mr. Alexander Raſſay ſaid, in a preaching their, that we had fallen ſtarſ amongs us, and yet they keipt their ſtation, meaning the Chancelor, and that the pillars of Church and State ware ſhaking, he was ſilenced by the biſchops to terrify others: but he was at laſt reponed again; which made ſome obſerve, that as, in the beginning of the British reformation, the English biſchops carried it on, ſo the Scots biſchops oppoſed it, even ſo now, when we are ſtruggling againſt Popery, our biſchops comply to let it in, and the English biſchops keep ther ground firme to hold it out.

At this tyme, dyed with us George Mauld, Earle of Panmuire, who P. 128. regrated nothing ſo much as that he was leiving his eſtate to his brothers, who, as he was informed, ware turned Popiſh, and on death-bed he could not put it by them, but it was not true.

On the 31 of Januar, being Sunday, happened a tumult in Edinburgh, of the rabble againſt the maſſe preiſts, who ware beginning openly to keep ther meitings. They got on of them, and cauſed him, on his knees,

swear the oath of the Test, and renunce Poperie, and held a whinger at his breif till he did it. Ther was 3 killed in this quarrell: fie the particulars in my folio law manuscript, at that tyme. And for this tumult, the Chancelor caused a drummer to be shot to death, and on Keith, a fencing master, to be hanged; of which see the particulars in my law manuscript cited, in February 1686. The printing and publishing books against Poperie, was also at this tyme tacitly discharged, by prohibiting any books to be vented or sold without a licence from the Chancelor; for they observed thesse books stirred up the peopple to a jealoufie and dissatisfiacion against that religion which the King had embraced.

About this tyme, the Chancelor married Lady Mary Gordon, the Duke of Gordon's sister, and relict of Urquhart of Meldrum, (for he had sent Doctor Sibbald, and Fothringhame, a preift, to his former Lady in September last, and dealt with hir to dy Popish:) this marriage gave rise to a satyricall refle&tion of Midleton's, on the 2 brether, that they ware the truest brether ever he knew to ther whores, and the falsest to ther God. Another observed, Perth's armes being waves, spoke out his infetled inconstant temper.

The Papists also, at this tyme, printed a paper, bearing that the late King dyed Popish; but it was looked upon as on of the *piz fraude*s of that Church, who thinks the advancement of ther cause hallows and consecratis the greatest lies; for, besyde many other famous witnessses, the Lady Ogilthorp, servant to the Dutchesse of Portsmouth, was in bed with him all the time of his sicknes, and declares, he dyed in the faith of the Church of England. This King, tho not so open, yet still countenances his mistresses, (as his brother did, *si non casle saltem caute*,) and hes created Mistres Sidely, Countes of Berkshire; but the Quean is so dissatisfyed, that she hes obtained hir removeall over seas. The Earle of Stamford, who was pannelled before the Parliament, is liberat from the Tower upon bayll; and the Lord Gray is pardoned for his rebellion with Monmouth,

and restored by the King to his honors and estate ; as also Stamford is pardoned and receaved into favor.

In the end of Februar 1686, 2 of our Bischops goe up to Court, to adjust religious matters with his Majefty, viz. St. Androis and Edinburgh ; and my Lord Tarbet comes home, and ather with him or after him, follows the news, that the King will have our Scots Parliament to meit for taking of the pænall laws against Poperie, and had nominate the Earle of Murray, Secretary, to be his Commissioner theirin, that as Regent Murray had made theſſe good A&ts, in 1567, ſo his great-grandchild ſhould expiate the cryme by cancelling them. The King's letters also come resoluing the Duke of Queansberry Hy Treasurer his place into a comiſſion of 5 ; ſee them in my folio law MS. p. , and in my 8vo. MS. of Seſſion occurrents at the 2d March 1686. Item, nominating the Duke of Gordon to be Captain of the Caſtle of Edinburgh, in Queansberie's place.

The French King's ſtature is erected with great magnificence, ſolem- P. 129. nity, and pomp, within Paris, tho' himſelf was lying ſick of a fistula in his fundament ; it had many inscriptions, ſee iñfra, this page.

In March 1686, we had account that the Duke of Savoy was beginning to perſecute his Protestant ſubjects in the wallyes of Piedmont, &c. in the ſame manner as the French King, and had ſent for ſome of his troupes to affiſt him ; wheron Geneva, and both the Protestant and Popiſh Cantons of Switzerland, had confederat together to oppoſe them.

The King emiſſes a proclamation in England regulating the manner of preaching, conforme to ſome canons and inſtructions given by his brother in 1662, as not to medle with the abſtrufe points of prædestination, elecſion, reprobation, and the coniſtence between God's decree and man's free will, or to limit the power of kings ; or in preaching againſt diſſentors, (this is meant of Papiſts) to uſe any bitternes or reſection ; and inſtead of the afternoon's ſermon, to uſe catechetiſcall doctrine, and the prayers, &c. ;

(See Rushworth's Historick Collections, anno 1622, p. 64, the like injunctions.) The King also then granted his generall pardon and indemnity to all who had been with the Duke of Monmouth in rebellion, excepting officers, and a great many men and weemen named, as Titus Oats, Bethell, Ferguson, &c.; and excepting murders, raps, and such crymes as use not to be comprehended under generall amnesties.

In the end of March 1686, the King called up Duke Hamilton, Sir George Lockhart, president of the Seffion, and Generall Drummond, to convince them that they must lay aside ther averision to the reschinding the pænall laws against Poperie: see my law MS. at that tyme. And the King, to shew his hatred at pænall laws, he liberats 400 Quakers out of prisons up and down England; but the Presbyterians ware not freed of the laws against them as yet.

This winter 1686, ther happened 3 fyres at Edinburgh and all on the Sabbath day, to signify God's displeasure at the profanation of his day: tho ther is no certain conclusion can be drawn from thesse providentiall accidents, for a Jew would draw just the contrare conclusion, that God was dissatisfyed with our worshipping him on that day; so thesse provi- dences may be variously interpreted.

Supra in margine, we see the King of France's statue erected by the Duke of Feuillade: the mottos and inscriptions theiron ware vain and bombastick, as that he had restored peace to Europe, which he had deprived them of; and then ther is a headlesse hydra lying with this *dicho*, 'Nec tantum Alcides potuit;' that he has rooted out the Protestant heresy, which 7 Kings before him could not doe, viz. beginning at Francis the I.; then follows the emblems of his releiving the French prisoners from the Moors of Barbary and Algiers; and his triumphing over Genoa by his bombs, and forcing them to submit.

The Duke of Newburg, now Palatine of the Rhyne, and popish, offering to build ane oratory for his servants' devotion in London, the Mair and

Aldermen opposed the work ; for which they ware called before the King and his Counsell and severely rebuked. The Papists turn very insolent in Scotland, and publish a book called The Papist Represented and Mis-represented ; in the on columne they set doun what they now would have passe for the doctrine of the Romish Church as it's varnished sweetened and disguised by the Bisshop of Condom, now Meaux ; and the other columne bears what the Protestant wryters alledge they maintain on that subiect, which he fayes are all calumnies, and falsely affixed on the religion ; P. 130. tho Tillotson and Mr. Wake, who answers this pamphlet, does prove that thesse are the opinions of ther Popes, counsells, doctors, and theologues, tho at present they would renunce them to cheat the Protestants. I find not only the method but very substance of this book is stollen by the priest, it's author, from the act of the Generall Assembly of the Clergy of France in Jully laft 1685 ; wherby they give in a complaint to ther King of the calumnies, injuries, and reproaches which the pretended reformed load them with, both in ther books and sermons. In on halfe page they set doun the doctrine of ther Church ; in the other, the false opinions they fay, are charged on them by the Protestant, which I have red with animadversions theiron.

Supra, page 126, we see the Popish foppery in rocking a child on Chriftmas ; now, we hear farder, they have another ridiculous cheat of living crab fisch shewed up in laun or tiffany lying about ther altar, which they give out to be the soulls lately rubbed, scoured, and then refined out of Purgatory by the help of soull maffes, which in the Re-velation are faid to ly under the altar, and to cry, 'Lord how long ?' fuch as are recently delivered are so pained and benummed yet, that they can scarce stir, after fome days they recover their limbs and begin to craull. This feimed so foolish that I could give it no beleiff till I fand Oldham, parson of Croyden, in his 3<sup>rd</sup> satyre against the Jesuits, page 55, have ane allufion to it. And this leads me to ther fond severity they used on them-

selves on Good Friday, Christ's passion day, in whipping ther naked backs, which some mad zealots in Rome will doe from a principle of merit, till the blood spring again ; which minds me of the preists of Baal in Elijah's tyme who cut themselves, and the Turkish Dervis doe the same.

In Aprill 1686, came to Edinburgh 2 charlatans with recommendations from his Majesty (so that the Colledge of Phyfitians could not stop them,) called Doctor Reid and Salvator Moscow, from Sicily ; who erected stages, and in ther printed papers did brag of admirable cures, as 64 blind persons restored to sight who had never seen from ther birth, (which blasphemie out did our Savior's reall miracles, for we read not that he cured so many borne blind,) with many other extravagant undertakings.

At that tyme, we had account from London, that Doctor Tongues' son had come in to the King and discovered that he found notes lying beside his father, (who was on of the first discoverers of the popish plot with Titus Oats) wheirin he had laid doun to Oats, and taught him the wholle method of his narrative. As also, Miles Prince (another witnesse in that plot) came and surrendered himselfe on the King's Indemnity, and confessed he knew nothing anent the murder of Sir Edmondbury Godfrey, and what he had said theirin was false.

Mongatz Castle, wheirin the Princess Ragotzi, Count Tekelie's lady was, holds out a great seige from the Imperiall army. The Emperor and King of Pole, by ane Embaffie, stirred up the Sophi of Persia against the Turk on that syde of Asia, but, tho he had lost Bagdet, &c., yet he was P. 131. unwilling to stir. It is a strange dulnes and want of curiositie that he is so long ere he get ane account of the affairs of Europe, for it was a full year after the siege of Vienna was raised ere he heard of it: They only travell in caravannes and troupes out of Turky to Persia for fear of robbers, and they goe but once a year.

Dolben, A. Bisshop of York, dyes in Aprill 1686, in a very unusuall manner: he lyes lethargick 46 howers as dead, then revives, and the

small pox breaks out on him, and dyes. The vulgar talked ther ware symptoms of poison; he was old: with us we are so rash that we bury in leſſe then 46 howers. He was ſucceſſed by [Dr. Thomas Lamplugh, Bishop of Exeter, in December 1688.]

The King grants his breiff for releiff of the French Protestants fled to England by the perfecution; and he gives himſelfe 500 lb. ſterling, and every on about the Court give very liberally, which is moft commendable in our King. In regard the Duke of Brandenburgh and States of Holland have not roume in ther countries for all the fugitive Protestants, they are treating with Pen, and other ouners of theſſe countries of Penſilvania, Carolina, &c., to ſend over colonies ther; ſo that the purity of the Gospell decaying heir, will, in all probability, paſſe over to America.

The Earle of Angleſea, who, deferting the country party, had fallen in with the King, dyes at this tyme. His collection of books, on of the beſt in England, was fold by printed catalogue and auſtion; wheirof I have a copie.

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IN April 1686, my 2 ſervants being impriſoned, and I threatned ther-with, as alſo, that they would ſeize upon my papers, and ſearch if they contained anything offensive to the party then prevailing, I was neceſſitat to hide this Manuscript and many others, and intermit my Historick Remarks till the Revolution in the end of 1688; after which I began ſome Observes of our Meiting of Eſtates and Parliaments held in 1690, 93, and 95, and other occurrents, forrane and domeſtick, breiſly ſummed up and drawn together yeirly, (but not with ſuch inlargements as I have uſed heir,) and are to be found diſperſt up and doun in fevall manuscripts beſide me, to be reviewed *cum dabit otium Deus.* (Vid. History of Convention of Eſtates, MS. A.)



## **APPENDIX.**



## APPENDIX—No. I.

SOME REMARKS ANENT MARITTIME AFFAIRS,  
AND SOME PROCESSES OF CAPERS BEFORE THE  
ADMIRALL OR LORDS OF SESSION FOR ADJUDGING  
OR RECLAMEING PRIZE SHIPS.<sup>1</sup>

THE severall Proceffes about Capers, and the severall debats, interloqui- Fol. 11<sup>a</sup>.  
tors, and turnings, &c. theiranent, are of that lenth, difficulty, and singu-  
larity, as they deserve a treatise apart, which, God willing, shall be done  
at conveniency. As particularly, the case betuixt Parkman and Allan,  
(see Mackeinzie's Pleadings, pag. 120,) who, being a Suedish vefell, but  
loaden with some counterband goods, as tar, for France, and the returnes  
of counterband caried their ;—the quæſtion was, not anent the quality  
of the goods, but the quantity, whither or no that was relevant in law  
to make hir lawfull prize.

2<sup>do</sup>. The case betuixt a Dantiszer and the Laird of Pittarro, wheir the  
Master having, throw fear and allurements, deponed that their war  
Dutchmen copartneris in the ship and goods, If a contrare probation  
might be led ? fo as to redarque the Masteris oath.

3<sup>do</sup>. The case betuixt the Castle of Riga and Sir William Bruce. Heir  
the King's declaration anent the number of seamen, *per se*, was found a  
relevant ground in law to declare the Riga prize.

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<sup>1</sup> From Folio Law MS. [A ?], fol. 11 to 15. The above title is copied from the table of  
Contents at the beginning of the MS. At fol. 11 the title is simply, " OF SOME MARITTIME  
CASES BEFORE THE ADMIRALL AND THE LORDS."

<sup>2</sup> Caper, a privateer, one who takes a prize ; also a vessel employed as a privateer.

4<sup>ta</sup>. The case of Hoy and Simonson against the toun of Dundie; wheir the Lords fand both parties *in bona fide*, vid. the Admiral to adjudge because of the commission granted to the Capitane, and Symonsone the Hamburger, *in bona fide*, to trade to Holland with counterband, the war betuixt Denmark and us not being then declared, till a moneth or 2 after Symonsone loused fra Hamburg. The Lords fand acts of hostility betuixt our King and Denmark not relevant to put strangers *in mala fide*, but onlie a solemne proclamation of war. Prizes that ware reclaimed, as they ware few, the reclamer for the most part past fra the King's and the Admirall's part, that the advocat might be layed aside. If their was any quæstion in law anent the grounds of the adjudication, the Captain and his ouner ware fred of dommage and intres, and, except in the case of the Lubeker and Captain Logan, I know none decerned in dommage and intres.

5<sup>o</sup>. In the case of Boigils, ane Ostender, and Kinloch, burgeses tickets ware not regarded wheir their refidence before the war was elsewheir, being commonly contryyed by merchands to evit captures.

Their ware many processes and singular cases before the Admirall amonst the privateers themselves, in the War waged in 1666, in the feazure of ships wheir both did attack, invade, and posseffe, to whom the prize should belong; What rule should be keipt in dividing of hir, wheir ship and men ware very small in number of gunes and other force, and, if their ware totall losse of on of the attackers, whow it should divide? Whether a Captain's paction at sea with another anent confortship, does, in law, bind the owners? with severall other onerous quæstions, which I intend to speak of apart, with some other observations on that kind of gaine.

After that it pleased God to restore the King, in anno 1660, their fell out some quæstions betuixt the United Provinces and England, in points of compt and reckoning about losses sustained by the English in the Eift and West Indies in King James, King Charles the I., and in this King's tyme, and about some deids of rapine, oppression, and murder, committed

by the Dutch on the King's subiects in thesse parts; wheirin the Dutch seemed very willing to satisfie the King in reason, and to give up the bodies of the delinquents to the King for punishment, and ware content to pay any dammage and intres sustained by the King's subiects, and done by the States' speciall order, after mutuall reparations of that kind made by one to others; wheiron papers past betuixt them, and persones ware named on both sydes to take notice of the mutuall clames, wheirin, it's thought, the Dutch came a greit lenth in point of reason, and who-ever they contended that any injury done in thesse places could be no ground of a quarrell heir, when princes amongs themself having condescended theirto , so obserued ever fince the discovery of America.

, privat men knew thesse transa&ctions betuixt our King and them, and which of them ware most in the wrong to other in point of reason, or the debats which preceeded the war; whoever, it was thought England's intreſt to have war with Holland on any termes, (which is a wicked opinion) and thir old injuries ware but the prætext of it, and, to justifie the way of procedor of revenging injuries done in America heir in Europe, (look't on as a novelty by the world) it was alledged, and not without reaſon, that wrongs may be repaired in other places than the place wheir the wrong is done.

In anno 1664, a War was formallie proclaimed betuixt them, wheirin we in Scotland ware included and drawnen to be sharers of the good and ill which follows war, contrare to our intreſt. And, because the King of France did aid the Dutch, we ware forced to proclaim war against France, which was never heirtofor done by us in any King's reigne; albeit France did not speciallie denunce war to us. In consequence wheirof, commiffiones ware given out to privateers, to feaze on all ships or goods belonging to them or the King of Denmark, who had declared for the States. Thus, merchands being shaken, louse of trading, sea-men falling in poverty, and ships rotting in the harbors, and multi-

tudes of persones being destitut of all means of subsittance, many merchands and seamen ingadged in a trade of Caping, and did outreik ships to that end, and swarms of frigats, weill manned, went from the greatest part of the sea ports in Scotland in that employment; wheirin all of them did so weill succeid and thrave, that they damnfified the Hollanders more then English. How far Caping is lawfull in a lawfull War, I will not determine, since it's generallie holden and believed as such; I had no friedome for it my selfe, tho many gentlemen and noblemen ware not ashamed to be sharers in it, and got great fortunes by it. But, lawfull or no lawfull, I am sure it was unlawfull on some mens part, who proposed no other end to themselves but gaine, and to beggar some honest fischer men and merchands, who ware not concerned in the War, and who wished the King and his family weill. Their was a greit error committed in ishueing out commissions for seazing promiscouuslie to all that fought them, without any previous triall of their courage, conduct, or discretion; and some of the Captains ware so barbarous and inhumane, that, to the reproach of this kingdome, they landed in some parts of Norroway, and robbed willages and poor boors, spoilled churches, took away bells, callices, and preists' wests, and all ships they stopped, enemies or no, on the pretence of carieing counterband goods to the enimy; which gave ground to the Lords to cause restore verie many of the ships declared prize by the High Admirall and his deputs, who is the only judge in the first instance to all actions for adjudication of prizes. During the tyme this War lasted, which was about 3 yeirs and a halfe, the Admirall and his deputs ware almost in continuall exercise; then all ships taken ware, by a speciall order, appointed to be adjudged in Leith by Mr. John Stewart of Kettlestoun, as the Duck of Lennox his depute, to whom John Cunyghame of Entraquen was clerk; for, before that order, some ware adjudged by other Admirall deputes, over whom the Hy Admirall's deputes pretend a powar of jurisdiction even to reduce decreits given by thesse deputes.

1<sup>st</sup> Case. What the power of the Admirall is, and its extent, deserves to be spoke to in another place. The 1<sup>st</sup> case I know before them was that of Captain Ged against Orrock. Orrock and Ged having renountred *super alto mari*, in order to a quest after prizes, did enter into a confortship to communicat losses and advantages for that voyage; and Orrock being somewhat foul, and having lost a saill, came into Sheitland to beit, and that in the dayes of the confortship. Ged, finding no advantage by this society, declared openly to Orrock in Shetland, that he would not adhere to the confortship, and that his company would not suffer him to keip it; and theiron Ged tore his part of the confortship; at which tyme Orrock alledges he told him he wold not quite him. Theirafter Ged takes a ritch prize of wines; and both meits at sea againe a ship; both runs at hir, buirds hir, and possessest hir. The queftion before the Admirall was, first, If 2 captains meiting at sea might enter in a confortship of that nature without consent of the ouners, outreikers of the frigat; and if that society, fo contracted, could oblige the ouners. The reafones of the queftion for both the parts theirof, I have at length elſewheir. The Admirall fand this contract did oblige the ouners. The 2d queftion was, If Ged might, on the ground forſaid, refile fra the confortship, his ship being a better failer and better manned nor Orrock's frigat; which the Admirall fand he Fol. 12<sup>a</sup>. could not do without Orrock's consent. This, in my judgement, was ill decided, (tho I was for Orrock,) for a contract of society in law is not like another contra&t, because the truft, fidelity, and diligence of the confort is ele&t, and men are frie to refile when they pleas, if they be not limited to a tyme.

2d Case. Was of Grot contra Broun, who both having met at sea, but without any confortship, they jointly assault a weſſell, louses guns at hir, and fought; wheirin Broun lost his weſſell, but his men ware ſafe, and by their helps the prize was feazed on and poſſeſſed. The queftions heir ware, 1<sup>mo</sup>, Quilther their ought to be a diſiſion or no, their being no confort-

ship. 2<sup>do</sup>, If the captain who first possest hir, or the capitaine who by his guns made hir streick, tho with the losse of his wessell, should cary the prize. 3<sup>to</sup>, If, in caise of division, the seamen ought to be regulat according to the number of guns and men, or force of the frigat; or if the division ought to be geometrick or arithmetick. 4<sup>to</sup>, If the losse of the frigat that was funk in the fight, ought to be made up in the one place, and then divide *pro reliquo*. In the 1 question, the Admirall fand, that without a consortship their ought to be a sharing amongs the captains. In the 2<sup>d</sup>, That nather of them ought to carie hir folie, being tane by their joint endevors. In the 3<sup>d</sup>, That the division ought not to be equall, but with respect to the inequality of the friggatts. And to the 4<sup>t</sup>, That confideration ought to be had of the frigat lost.

The 3<sup>d</sup> Case was betuixt Captaine Bennett and Henrie, who having entred into a consortship for 12 dayes onlie, and Henrie having gone to land to carine his frigat, wheir he stayed 3 of the 12 dayes of consortship, and Bennet having tane a ritch prize on the 13 day. The quæfition was, If theſſe 3 dayes Captain Henrie was not at ſea ought to be counted 3 dayes of the 12; and he contended they ought to be failing dayes, and on that ground craved a ſhare in the prize. Bennett contended that the 12 dayes ought to be counted *tempus continuum*, and not *utile*. Item, Bennet deponed, it was only to laſt till the 12 day of March, which eaſed the Admirall of the decision, for their was heir no written consortship.

A 4<sup>t</sup> caſe was betuixt Captaine Seatoun and Bothuick, who both entring amongs a fleit of Dutchmen, on whom none of them durſt fingle hazard; Seaton falls by accident on the richeſt ſhip of the fleit; and Bothuick, who was the prettieſt man, and had the beſt frigat, fell on ſome ſmall veſſells. The queſtion was, their being no conſortship, nather by word nor writ, but that which was for 6 dayes, which ware expired, if their ought, in that caſe, to be a diviſion. The Admirall

fand Seaton was not bound to divide the prize tane by him, it being *primi occupantis.*

Their ware severall repetitions of wessells made by strangers against Capers, which was done before the Lords by way of reduction of the Admirall's decrets of adjudication pronounced in favours of Capers. Reason of reduction, in generall, was iniquity committed by the Admirall in adjudging their vessells prizes; and it was strange, that on of 20 decrets given by the Admirall against strangers, ware sustained, but all of them ware reclaimed. It's true, the lawfullnesse of adjudication of Dutch vessells prizes, nather was nor could be called in quæstion, they being declared ennemis. But the Dutches being masters of the hail commerce of Europe, (which, by their diligence and frugalitie, they had enhansed to themselves,) what they could not safely do by themselves, (because of their war with Britan,) they did by the means of other strangers, who ware their's or our allies, especiallie the Suedish and Flamands in the Netherlands, and other frie nations; and in order to this policy of trading, many wayes ware found out to evit the hazard of Capers, and yet to preserve their commerce; as, *Primo*, they made many of their seamen and merchands procure burgesse tickets fra Oftend, and other parts in Flanders; *2<sup>do</sup>*, They made them stimulat a mutation of their domicil fra Holland to thesse parts by a temporarie residence ather their, or at Stockholme, or Riga, or some Fol. 12<sup>b</sup>. of thosse Hants tounes on the Belt. *3<sup>to</sup>*, They made simulat cockets fra this to that port, and made the bills of loadning run in allies names, wheiras they reallie belonged to themselves. *4<sup>to</sup>*, They throw money purchased passes fra the Admirall of England, videlicet, the Duc of York ather to France or Denmark, and to returne to Holland; and by thir means and others, they caried on some kind of trade the time of the war, tho no part short of what they had the tyme of peace. This they studied, that fince they could not friely and commodiouslie carie on their wonted trade, they cunningly confounded the haill trade of the world, that others might

not come at the knowledge of their gaine, and by custome, fisch in their waters, and eat their meat out of their mouths, and so make that misterie knownen which no man unfold but themselfes.

It might seime a doubt in the entry of ther processes, whow the Lords could reduce the Hygh Admirall's decreits, he not being a judge subalterne to the Lords, but supreeme and independent from them. (It's called a Soverain Court in the Act 15 Parl. 1609.) But this quæfition was never started by any; and it seimes altogether uncontrovorted that the Lords, in all civill causes, are soverain to all civil judges in Scotland, in the 2d instance. It's true the Admirall, in the 1 instance, seimes to be Soverain, so as all Marittime businesse ought to be commenced before him, as the onlie competent judge; but if ather he err or commit iniquitie, causes may be advocat fra him (their is a clause to this purpose something in the 12 Act of Parl. in 1661,) before the sentence, or after sentence may be suspendit or reduced, just as the Shireff's decret in perambulations may be suspended, tho, by A&t of Parliament, they be sole judges in the 1 instance; and sometymes decreits of Parliament are subiect to the Lords' jurisdiction in some cases.

Another quæfition might have been in thir cases, If the Admirall, committing iniquity in adjudging prizes unjustly, ought to contribut for the parties dammage and intres. For it's a heavy losse to a skipper to be hindred in his woyage, and to be brought up unjuiflie, and detained halfe a year neidleſlie, and so losse in effeſt his voyage; for being brought up on a probable ground, the Capers are frie of dammage and intres; and since the Hygh Admirall is praeſumed to understand best what in law is revelant to infer confiſcation, if he erre, and by his ignorance bring many ſtrangers to beggerie, it ſeimes juſt he ought ſuffer theirfor. This has ground, in the Civill law, L. 13, D. *de Judiciis: Judex male judicando litem facit suam.* But this quæfition was never moved yet, and anie dammage and intreſt that the Lords, in the caſe of a vefſell, reclamed, was onlie againſt the Captaine and ouners.

It was pittifull to sie whow many seamen and strangers ware redacted to poverty and mad beggars, even tho they won the cause, by not setting doun some rules in their behalfe. It's granted, the High Admirall had no rule or example for direction in his procedure, but what his oun pate suggested him, and what he learned by the practise of forrein nations, who ware better accustomed with this kind of trade then we; for it was reallie but a stranger in this country before this War. Some Caping their was in King James his minority, and Queen Marie's Regencie, when war was betuixt us, and France, and Spain; but nothing like this which began in 1664; which grew to that incredible height of advantage to the owner's outreikers, that never nation heirtorfor took richer pryzes, nor mo of them, then the Scots Capers, who became famous for their activity and cunning diligence in the trade, (a great commendation sure.) Theirfor, it was no wonder the Admirall erred in many things, considering the great heat of the War, and that it was knownen the Hollanders took the forsaide singuler courses to cary on both war and trade togither; wheiras, in Scotland, we had no kind of commerce to speak of; albeit in tyme we began to trace the Hollander's way of trading and warring togither. It will not be beleived what wayes they took to circumveine the Admirall, and to disappoint the grounds laid doun by the King and his allies, to drive a trade without hazard, so they might not correspond with Holland nor cary contraband; and particularly, their ware articles agried on betuixt the King and the Fol. 13<sup>a</sup>. Suedes, and a colledge of commerce establisched in Stockholme to that effect; with whom the Dutch got favour, and made simulat vendition of ships to Suedes, that they might the more safely fwear that they did not belong to Hollanders; and it's lamentable to think upon the wayes tane to æquivocat and fwear with a reserve, and what a weak passe on is redacted in law, when he hes no other ground to seek his oun or to retaine what is in his possession, but an oath; which was and yet ought to be the

greatest cement of humane society imaginable. But if ever that trade come in faschion againe, (as I wish fra my heart it may never,) the Admirall and all Judges in the land will be better instruted whow to carie heirafter, both for preservation of peace amongs Capers themselfes, (who ware like in every thing to go by the ears with their ouners and souldiers,) and for indemnifieing of strangers, upon whosse cost we have learned more maritime law and cases arising theirfrom, nor ever our prædeceffors.

The rule præscryved by the Admirall, for peace amongs the souldiers and merchands outreikers, was, that in all pryzes the King had a 10 part, and the Admirall a 15 part of the haill. This being deducted, the 3d of the reft did belong to the Captaine and his companie, and the 2 part to the ouners:—whatever was found in the cabine belonged to the Captaine solelie.

In the War that happened betuixt the English and Dutch in 1672, it's weill knownen that sundry of our Capers, particularlie B. Baird, having got free ships of our allies, adjudged prize upon this sole head, that they ware carrieing cornes in to Holland; yet they sent that same very wi&uall thither themselfes; which Sir G. Lockhart said, was as much as their necks was worth, and he wondred that B. could sleip till he had a remiffion for it. B.'s great argument, why none of thesse ships should be absolved, was this, Thair is a hundred thoufand pound sterling within the kingdome of unclear pryzes, and he desires gladly to know if it be the entrest of Scotland to let soe much money out of the countrie againe. But infalliblie the curse of God will follow such ravenous and unconscien-tious acquefts.

The Ministers of state of Forraian princes at London, make such ane allarum and clamor upon our Scots Pirats, (so they call them,) that if they get not redreffe and their interests be not more tenderly confidered, they threaten a war in name of their masters. Yea, it was credibly averred

by many, that a frie Suedish ship, being brought up richly loaden, and which would undoubtedly have bein absolved, B. Baird, who had a share in the Caper, caused privily convey some barrells of pouder unto hir, only to be a ground of adjudication, and which was used as such: a villany so grosse, that he deserves to be thrust out of all society for it, if true, seing charity can scarce beleive on would be guilty of such wicked thift.

## No. II.

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ACCOMPT OF THE CONVENTION OF THE ESTATES IN  
JUNE 1678, WITH THE REMARKABLE OCCURRENTS THAT  
HAPPENED THEREIN.

28 May 1678. AT SECRET COUNCELL, his Majesties letter for holding  
ane Convention of Estates at Edinburgh, on the 26 of June nixt, was red,  
and proclaimed at the Mercat Croce of Edinburgh ; see the printed procla-  
mation : as also, the double of the commission to the Duke of Lauderdale,  
to be his Commissioner therin, with this extraordinary clause, that he  
should continue in that character after the ending of the Convention, ay  
and whille [till] he should see his Majesties face, and come in his pre-  
sence. It's true, Rothes, after the Parliament was dissolved in 1663, con-  
tinued Commissioner for two or three years, but it was not by vertue of  
any clause in his first commission. It was questioned by some whow it came  
to be indicted only upon 29 dayes, wheiras it was ever understood, that  
all summonitions to Parliaments, or Conventions of the States, used  
ever to run on forty dayes citation and præmonition. [A&ts of Parlia-  
ment should be proclaimed on 40 dayes, and till then they are not obliga-  
tory nor binding, A&t 128, Parliament 1581.] It was answered, 1<sup>o</sup> That  
Conventions might be, by the laws and customes, called on 20 dayes.  
2<sup>o</sup>. In emergencies and urging and pressing affairs, the tyme might be  
abridged *pro re nata ubi periculum in mora* ; and their was no statute re-  
quiring 40 dayes promulgation. 3<sup>o</sup>. If their was any anticipation, it was  
supplied by writing particular letters, and sending them with expresses to

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<sup>1</sup> From Folio MS. marked A. fol. 322-326.

each shire and borrow; to give them tymeous notice, which is all the intent of the 40 dayes intimation.

See what hes been Craig's opinion of Conventions of Estates, pag. 38 of his books de Feudis. See a little touch of the power of such Conventions in that paper besyde me, called "Reasons why Taxations should be raised, after the old way, upon the Pound Land :" it's folio 73 of the book wheir it's engroft. See A&t 13, Parl. 1661, wheir the King hes promised to raise no more Cesse. Item, A&t 49, the same Parliament, wheir annuel-rents at 6 per cent. are declared free of all retention fees, or other burden. See reasons at large, alibi, why money, being allodiall, cannot be burdened as land is.

As for the extraordinar favors the King hes shewen to the Duke of Lauderdale, in refusing to hear all his ennemis, cloathing him in purple royll robes, making him a Duke, and partaker of his dominions, and his cheiff freind, some think it a parallell case what Alexander did to Jonathan the Hy Preift, in the 1 book of the Maccabees, 10 chapter, verse 61, et sequentibus.

In choifing the Commissioners for shires and borrows their was great heat and contention, and much briguing to mould them to the Duc of Lauderdale's stamp. In sundry shires the elections ware double, as in the Merse, Air, Renfrew, &c. In Renfrew, 4 gentlemen made a secession from the rest, and choiced 2 of themselfes, viz. Colin Campbell of Blythwood, my brother in law, and Bannatyne of Kellie; which election could not subfift in law, because, by the 113 A&t of the Parliament in 1587 all such commissions ought to be fealled and subscryved with 6, at leift, of the Barrons and Freeholders of the shire from which they are sent;—this number they will not get in Clackmannan, and some shires, as Cromartie; and the 272 A&t Parliament 1597, requires the commissions be granted in a full Convention of the haill Barrons, and subscryved by a great number of them.

It was started as a question, whither the late bond against Conventicles,

that he had bred so much disturbance, could be put to the members of the Convention of Estates, theirby to purge of and exclude some disaffected members; and it was thought no ty could be imposed upon them, but what was prærequired by some law, and their was no law incapacitating the refusers of the bond from being members of Parliament. Their was, indeed, the 5<sup>t</sup> A& of the Parliament in 1662, ordaining the Declaration to be tane by all members of Parliament, but, the A& not mentioning Conventions of Estates, it may seeme their is no warrand in law for imposing the Declaration on the members of a Convention, since they are *jura disparata*. Yet this A& of Parliament 1662 has a generall in it, and custome since he has extended it to all our Conventions; and, accordingly, the Declaration was tane by all the members of this Convention 1678.

Conventions use not to be riden at their sitting doun or risings; nor the crown, sword, and other honors, brought to it. According to the induction, the Convention sate doun on the 26 of June 1678, and the Commissioner came to the Secret Councell chamber, wher they did meet, accompanied with 30 coaches. The prayers ware said by Dr. Bruce, Arch-deacon of St. Androis; the rolls called, and the Declaration subscryved, and his Majesties letter red. The Comissioner proposed that the House behooved to be first constitute, and the controverted elections cleared and discust, before they could fall to any busines; and that the easiest and speediest way of doing that, was for him to name a Committee to report. First, it was pressed, things might be done in plain Convention. This being rejected, then it was fought the Committee might be open, that every member might have acces if he pleased. It was condescended to, that if any member had ane objection against a commission, he should be admitted to give it in to the Committee; then the debate arose, How, and by whom the Committee should be named? Duke Hamilton took the speach, and told, that no man payed greater respect and deference to the Royall Praerogative then himselfe; yet he conceaved it was the privi-

ledge of Conventions and Parliaments, that they should nominat and appoint their oun Committees, and that it was done so in the Parliament 1661. The Earle of Argile answer'd, that was but a late instance. The Duke mistaking it, as if he had called it a lame instance, said, that it was the Parliament that had most largely explained his Majesties right and praerogative. St. Androis replied, it was but a lame Parliament in 1661, for it wanted the Spirituall Eftate; and Parliaments fince, (meaning the 1 A&t in 1669,) had asserted the King's supremacy more then it; at which [the] Archbishop of Glasgow, they say, took privatly exception. The Earle of Perth, and Laird of Broomhall spoke a litle. Then the Comissioner stopped the debate, and told, Whither the nomination ware a branch of the praerogative or not, he hoped the Convention would not refuse him the power to name the members. Wheirupon the most part of them stood up, and without voting it, desir'd he might name the Committee, which accordingly he did, 6 bischops, 10 noblemen, 10 gentlemen, and 10 borrows, besyde the officers of state. Then the Earle of Drumfreis produced a decree of improbation against Richard Moray of Brughton, elected Comissioner for the Stewartry of Galloway, finding a wryt to have been forged by him, in a matter betuen him and on Thomas Lennox, a glover, and declaring him infamous, and incapable to bear honor or dignity for the same, and desir'd to know if it was credit or interest of the Court to have such a member. The defences proponed for Brughton, are, 1<sup>a</sup> He was only denonced fugitive for not underlying the law, which is no probation of his guilt. 2<sup>do</sup>. *Efto*, he has a remission which redintegrates his fame. Yet Lex 3 C. *de Generali Abolitione: Indulgentia quos liberat, notat, &c.* Vide supra folio 234; see more of Brughton's case, folio 324, infra. It was referred to the Committee to be considered likewayes, who ware appointed to meet Thursday the 27 of June, both fornoon and afternoon, and on Friday the 28 in the fornoon, that they might be ready with their report against Friday, in the afternoon.

At which time the 2d meeting of the Convention was kept, but late very short whille ; on this pretence, that the affair was not fully digested nor ripened by the Committee, for a report. But the true cause was, the tuo Dukes ware capitulating, to see if they could be drawen to ane understanding, to goe on in a joint course ; wheiron it was adjourned to Saturday the 29 of June, in the afternoon, which was thought a very unusuall tyme.

The report of the toun was, that the Commissioner had, to ensure the  
Fol. 323<sup>a</sup>. Borrows to himselfe, promised their should be no retention of the annuells-rents. Many ware of the opinion, that it exceeded the limits of the Convention's power to retaine, since, by the 49 A&E, Parliament 1661, annuells being reduced to 6 per cent, it's declared they shall be free of all retention, or other public burden. Now, this being security given by a Parliament, it could not be infringed nor altered by any thing lesse then a Parliament. It was rumored, tho they did it not by way of retention, yet they might doe it by taxing and assessing money, and the personall estates, and for discovery theirof, cause the persones depone, as was practised by the A&E of the Taxation in 1633. But this burden of retention, or cesser personall estates, is a most unequall greevance ; for lands pay according to their valued rents; now, the valuations are ofttymes a 3<sup>d</sup> within the true rent; wheiras money *valut seipsum*, and the full extent of its interest and annuel-rent is knownen to be 6 for each hundred, and the creditor nather gets, nor may take any more ; so that retention of on of 6 from a monied man, is the 6<sup>t</sup> part of his full rent ; wheiras the tax on landed men will seldom be the 16 part of their reall true rent, which is concealled and not knownen by the valuations ; and the true proportion of retention of annuel-rents for adjusting it with the cesse on land rent, and making ane equality in the burden, is, that the annuels for a yeir be only 5 and a halfe per cent., and the other halfe be retained or payed in to the publick ; which answers as if the annuells ware at 12 in the hundred, and on of that 12 ware payed. Befydes, it ware a greivous burden to make retention, which mainly falls

on the borrows in whosse hands the greatest part of the money is, (their estates confiscting in money) and to pay the 6<sup>t</sup> part of the taxation as to the totall over and above, which is most unæquall.

It's contended by some, that the clerks of Secret Councell are the only clerks to Conventions of the Estates; because the a&ts of Convention have alwayes been in use to be recorded in the register books of the Secret Councell; and James Primrose, when clerk to the Secret Councell, did officiat as clerk to the Conventions. Yet Sir Archbald Primrose, clerk of Register, in the two Conventions held in 1665 and 1667, caused Mr. Thomas Young (who was nather a clerk of Session nor [of] Secret Councell) exerce as clerk. In this Convention Mr. Alexander Gibsone performed the office; but whither as on of the clerks of Session, or on of the clerks of Secret Councell, was not drawen under quæstion.

To returne, then, to the meeting held on the 29 of June. The Commiffioner told, the Committee had prepared a report of their tryall and examination they had made of the comiffions quæstioned, and defird the report might be red. Duke Hamilton told, their ware sundry persones, members of the Convention, concerning whosse comiffions ther was no doubt, yet their ware legall and relevant objections against themselfes, why they could not fitt their; and he judged it the most proper and rationall method, to discuss thesse objections before the meeting should take in the Committee's report of their judgment and opinion of the controverted comiffions. The rumor was, that Duke Hamilton meant some of them that ware upon the Committee, as the President, who albeit he was choicen on of the Commissioners for the shire of Galloway, yet he had not a 40 shilling land holden of the King, lying within that shire; and they prevailed with the Lord Blantyre to goe doun to the Abbey and give in this objection to the Committee. They say the President took it of, by producing charters and seafines of lands their, of a value far above that. Fol. 323<sup>b</sup>. Some thought Duke Hamilton also aimed at the King's Advocat, of

whosse letters they had, written during the tyme of the late shisme between the Bench and Bar, sounding litle from treason, and refle&ting not only on the Judicatories, but on the King's conduct ; only their was ane amnesty for all thesse boutades, and the King had advanced him fince to be his advocat. The Commissioner contradic&t ed this motion of Duke Hamilton's, and told, It was the more naturall way to take in the Committee's report first, and if, theyrafter, they had any farder obje&ctions to make, they should be heard. So they proceeded to the report. The first article of it was anent the election of the Laird of Philiphauch for Forres, wheirof he was Shireff, which election the Committee conceaveed was legall and orderly made, notwithstanding the obje&ctions made against it, which ware, the great præcipitation and haft with which it was hurried throw, the gentlemen not having had sufficient advertishment for being present. Theirfor, the Earle of Tuedale, who appeared vehemently against this election, craved the shire might be ordained to elect of new, and he alledged the proclamation at Selkirk for their meeting was but ane hower before they met and ele&t ed. Answered, their was competent eneugh tyme given, and the proclamation was not *de essentiali*, and their was letters writ to all the heritors ; and such as came not, their answers, containing excuses, ware come before they proceeded to meet ; so they had as much tyme as to have been present themselves, if they had pleased, and the gentry ware frequently eneugh conveened, and the informalities objected ware not of moment. Then it was put to the vote, Approve of the Committee's report as to the ele&t ion of Forres, or Not ; and Approve carried it, upwards of 50 or 60 votes ; which was the ods wheirin the Duc of Lauderdale and his party was superior to Duke Hamilton's, all alongst, in the Convention, in the following votes ; for the most that fyded with Duke Hamilton ware about 39 in number, and about 100 went with the Commisioner. With Duke Hamilton ware the Earles of Buchan, Dumfreis, Perth, Roxbrugh, Southesk ; among the Bischops not on ; the Lords Bargeny, Blantyre, &c., Androw

Fletcher of Salton and Adam Cockburn of Ormiston, the two Commissioners for East Lothian, Generall Major Drummond for Perth, Blackbarronie for Tuedaleshire, Cromvel Lockhart of Lee, and Hamilton of Silver-tonhill for Cliddisdale, with sundry other barrons. Duke Hamilton had only 3 of the burrows joyned with him; Patrick Hay for Perth, John Andersone for Dumferling, and Sir Alexander Bruce of Broomhall for Culros. In the voting, the Earle of Mar rose up, and offered to prove that the Earle of Buchan had no priviledge to fit and vote their, because he was not yet full 21. Buchan answered in a passion, that upon his honor he was major, wheiron he was permitted to vote. Yet, nixt day, Mar produced a testificate, bearing the tyme of Buchan's age, by comparing wheirof it appeared he was not yet 21. But this afforded only matter of laughter. The Lord Blantyre, finding himselfe omitted to be called on in the rolls, he craved he might be called, which was done. Broomhall being pased by, he told the Chancellor that it was promised to him, that, during the dependence of the discusing of his commission, he should have liberty to Fol. 324<sup>a</sup>. vote (which was not granted to the other controverted commissions). The Commissioner desired by all means that Sir Alexander Bruce's vote might be received. Then Bromhall cryed in a very rude way, "My vote is No! viz. I disapprove." The Commissioner answered in a great passion, "Weel then, fir, your No! does not præponder; but I pray you, my Lord Register, mark heirafter that Sir Alexander's vote be not forgot to be asked, but wryt doune his name in capitall letters." Some ware for reading the haill report over, and then by on vote have approuven it, which would have made short work, and huddled up all; but the Commissioner was content to give them so much fair play, as to allow them to reason and debate every controverted election apart.

The 2d controverted election determined by the Report of the Committee, was anent the election in Perth shire; as to Generall Major Drummond, their was no quæftion; but as to the other, their was double

ele<sup>t</sup>ions, viz. Grahame of Fintrey and Morray of Strowan. Grahame of Fintrey had been choicen at the Michaelmas head Court, 1677. When the proclamation for the Convention is, the gentry mets again and choiced Morray of Strowan. The Committee's opinion as to Strowan was, that his ele<sup>t</sup>ion was illegall and null, their being no vacancy; and because, by the proclamation calling the Convention, their ware no shires permitted to meet and ele<sup>t</sup>, but only such as had made no ele<sup>t</sup>ion at the Michaelmas preceeding; and so when they met and choiced Strowan, it was without a warrand. It was answered, at the Michaelmas, when they choiced Fintrey, they had no prospect nor forsight of a Convention, and at that tyme they thought Fintry capable; but since, being informed of his condition, that he is not heritor of a fur of land within the shire, but that all was apprysed, and gone from him, and he was a meer bankrupt, and who refuged in the Abbey; they being sensible of their mistake, and that such a man was no more capable to represent them theirfor; they met and ele<sup>t</sup>ed of new; and the proclamation hindred them not, unleſſe their Michaelmas ele<sup>t</sup>ion had been of a person capable, which was not; and so they conceived it to be a null ele<sup>t</sup>ion. Alledged, Fintrey was as capable now, as he had been for 7 years before. The vote of the Convention found Strowan's ele<sup>t</sup>ion unwarrantable and illegall.

The 3d controverted ele<sup>t</sup>ion was Richard Murray of Brughton's, for the Stewartry of Galloway. The Earle of Dumfreis produced a decision of the Lords of Seffion, wheirby they repelled John Frazer, wryter, from being a witnesse in a civill action betuixt tuo parties, (of which see a rem<sup>a</sup>rk made by me, *supra* folio 314, num. 702,) because he had been de-  
Fol. 324<sup>b</sup>. clared infamous for bigamy; and that, notwithstanding he had the King's remission for the said cryme. And if Brughton could not be receaved a witnesse, notwithstanding of the King's remission, *ergo* much leſſe he could not be a member of the Convention. It was answered by the Prefident and King's Advocat, that in civill actions, especially wheir their was not

*penuria testium*, the Lords ware tender to receave persones on whom their had once bein a stain. That the falsehood contained in the sentence against Brughton, was but a childish kind of a slip in the execution of a horning, and wheirin scarce any advantage redounded to Brughton, and so it was not presumable he had done it *ex propofito et animo falsum committendi*, but of perfect ignorance. That the King might make use of such persones notwithstanding, and that their was a difference betuixt the being a witnesse, and being a member of a Convention. This was a point of the publick governement of the kingdome, wheirin dispensation might be made; that his remiffion was not in the common forme, but restored him as fully and inteerly to his fame, dignity, and honor, and to all his capacities, as he enjoyed the same before the said sentence of falsehood, as if it had never been given nor pronounced; and discharged any under the paine of death to obje& the said cryme to him. General Major Drummond, that he might be the better hard, stood up upon the furme, and alledged, that he pretended not to be a lawyer, and so knew not what thesse words might import, beyond the exuberance of style, which uses sometymes to be enlarged, and yet, without thesse clauses, the remiffion be ample eneugh as to all the designes his Majesty hes before him, which is only sparing their life and fortune. Only he behooved to say this much, that abroad, in all the places wheir he had been, no gentleman would admit a person guilty of fuch villanies into his company; and that it was a part of his Majesties royall clemency, that his ears ware not cropt, and the halfe of his estate feized on. Dumfreis urged, the learned judges of the law might give him a reason why he might fit their, and yet not be a witnesse. Duke Hamilton contended the remiffion was but ane extenſion of style. The Comiffioner put on a great seeming huff against Drumond, as if he would have controverted the efficacy, validity, and extent of his Majesties grace and remiffion; and told he would gladly fee the man that would affirme the King could not rehabitat,

to the effect of rendering them capable of brooking the same honors and dignities they could have done before; and if any denied his Majesties praerogative royall in that particular, he would acquaint his master theirwith. The vote was, whither Brughton's remission capacitated him to be a member of the Convention or not? and the Commisioner's boast did so overaw the members that not a man voted in the negative. Thus he got his legality declared by a vote of the Convention, as Sir William Purves had got his honesty asserted by ane A& of Parliament. Many admired why the Duke of Lauderdale and the President concerned themselves so passionatly in this man, since they would have had a great deall more credit in letting him slip; and it had been [more] for Brughton's oun advantage to have done so, then to have  
 Fol. 325<sup>a</sup>. suffered his name to have tossed, and that odious cryme to have been ript up as it was. Some expected he should have appealed Drummond for his discourse; but he was more wise then stout.

The 4<sup>t</sup> controverted election was that of the Merse or Berwickshire,<sup>2</sup> betuixt Sir Patrick Home of Polwart and Sir Roger Hog, Lord Harcours. Polwart craved, since he had to doe with a lawyer, that his councell at law might be heard to plead for him. This desire was called a novelty. Duke Hamilton told it was a mistake; for, in the Parl. 1661, he instanced a case in a controverted election in the shire of Nithisdale, wheir the Parliament allowed advocats to plead. Some controverted if any such thing could be made appear from the Registers. Duke Hamilton told, he knew not what they insert in the Registers; but sure he was it ought to have been marked, if it was not. Harcours, in the heat of the debate, not with that respect that was fit, contradic~~ted~~ Duke Hamilton, and cryed to him, "There was

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<sup>a</sup> In the margin, the Author adds, "Vide supra of this Merse election folio 323, in margin 2dae paginæ." This refers to the paragraph which is inserted, at page 276, as part of the text.

no such thing." This was put to the vote and refused. Then Polwart desired he might be heard himselfe, and, because his voice was low and he was at a distance, he was desired to come neir the throne; which he did, and alledged, that tho he had only 20 subsciptions to his election and Harcours had 39, yet his was the more valid in law, because he offered him to prove that 25 of thesse who voted and signed for Harcours, ware ather not infest, or had not a full 40 shilling land, or ware denuded by comprysings, or the gift of their life-rent escheat, &c. Harcours and the President answere, that, *etc*, this was true (as it was denied), yet the Convention was not the court, *in prima instantia*, to try such objections, but the Shireff Court was the only proper and competent judicator wheir they ware to have been objected against the sundry heritors, the time of their voting; and if the Shireff or his Depute had ather unjustly repelled them, or, without any notice or regard theirto, had allowed them to vote, then the Convention, upon a representation made to them, ware judges of the objections. But, since Polwart had only in the Sheriff Court, the time of the voting and ele&ting, protested against thesse feuars as uncapable, and had not craved the judgement of the Shireff and the Court upon the relevancy of the objections he gave in against them, as he shoule have done, he cannot now quarrell that election upon any such pretence, else all the Barrons of Scotland shall be forced to bring in their charters and evidents to Edinburgh to the Convention; and the Convention shall never fall to their businesse, but shall consume their haill tyme in perusing men's evidents. Argyle added, by this rule they might force the Nobility to produce their patents of honor ere they voted. The Commissioner cryed, "When shall we shew our zeall for his Majestie's service! when shall we fall to the work for which we met! shall we spend all our tyme in constituting the Court? Let it not be said that it shall be in the power of some few men to delay and hinder so good and so loyall ane intention."

Then a vote determined Polwart's election void, (as the Committee had found,) fince he had not discut his objections in the Shireff Court.

Fol. 323<sup>b</sup>. [The election of the Merse<sup>3</sup> was likewayes controverted betwen Polwart and my Lord Harcous. Objected against Harcous commission, that many of the voters and subscryvers to it ware but petty fewars, and had not a 40 shilling land holden of the King; and which was objected against them at the tyme, and is now offered to be proven. Answered, seing it was not proven before the Barons in ther meeting, the tyme of the ele&tion, Harcous commission, who is now chosen, cannot be quarrelled theiron, and it's not tyme to prove it now. Replyed, they could not be ready to instruct it their, not knowing thesse unfree persons would præsume to vote, and they could not carry along with them all the Retours of the shire, and, wher a Barony is dismembred and divided to fundrie heritors, without proportioning and retouring each part this was impossible. Yet the Convention fand the said commission could not be quarrelled on that head now; which was very hard.

The King, by a contra&t in 1633 (see the unprinted A&s) betuen him and the Earle of Sutherland, because of the paucity of freeholders of the King in that shire, allowed the Earle's oun wassalls to elect and be elected; and so Gordonston and Rorat, though not the King's wassall, ware sent. The King's Advocat then alledged, that it had been decided that a nobleman's eldest sone and appearand air, though he have a 40<sup>th</sup>illing land in the shire, yet he cannot be choisen, because he is of the Estate of the nobility, and not of the small barrons, and on man, by the A&t of Parl. cited in f. 325 *in fine*, in Mr. George Dickson's case, cannot be of 2 Estates.]

Fol. 325<sup>b</sup>. The 5<sup>t</sup> controverted ele&tion was of on Thomas Urquhart from Crom-

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<sup>3</sup> This and the following paragraph were added by the Author on the margin of the MS. at fol. 323<sup>b</sup>.

arty. The comission being red, was found so ridiculous, that it was rejected without a vote.

By this tyme it was neir 9 at night, they having fit more then 4 howers. The Comissioner told, their refeted some few more controverted elections; but he would refer them, being now late, to another dyet, which was Tuesday the 2<sup>d</sup> of July 1678. And in regard their had been a great throng on the 29, a strait order was iſhued out, that none but members should adventure in heiraſter, the roume being strait.

Yet, on the 2<sup>d</sup> of July, (which was the 4<sup>th</sup> meeting), Henry Fletcher, brother to Salton on of the Comissioners, having got in, was obſerved, and ſent to the Tolbooth, and fined in 20 dollars; wheiron Salton, the meeting theiraſter, pitched on little William Talmush as no member, ſo that the Comissioner was forced to oune him as on of his ſervants, whom he had privilege to bring in. This day they fell on the controverted election of Air, and by the report of the Committee, the election of Sir John Cochrane, and Sir John Cunyghame advocat, was found null on this ſubtilty, that by the 272 A& [of] Parliament, 15 James 6, in 1597, the barons' commissions ought to be ſubſcryved by the Clerk of the Convention which theirs was not, tho ther was three tymes moe heritors ſubſcribed ther commission then the others, wheiras the President's and the Laird of Blair's was ſo ſubſcryved. It was anſwered, 1<sup>o</sup> That a&t was then made when ſcarce any of the barons could ſubſcryve for themſelves, which reaſon now ceaſes. 2<sup>o</sup> It was utterly in deſuetude; and if they would examine ather the commissions to this Convention, or any of the preceeding Conventions or Parliaments, theſſe 40 years bygane, they would not find on of 20 of them who obſerved that formality. However, the Convention voted their commission null for want of it, though the comiſſions of many of their oune faction, *eodem laborabant vitio*; but this ſpoke their partiality.

The nixt comiſſion was that of Mr. George Dickſone of Boutchrigs,

for the Brugh of New Galloway, which first the Convention of Borrows, and then the Convention of Estates, repelled and rejected, on this ground, that he was elected against the King's letter, and the acts of the Convention of Borrows, declaring their should be none choicen to represent borrows but merchands within that brugh, actuall traffiquers and residents, bearing scott and lot with the rest of the citizens, which did not agree to him. And farder, the King's Advocat and President urged against him the 33 A& of the Parliament in 1587, discharging that their be any confusion of the persons of the 3 Estates; and that every man shall only occupy the place of that selfe Estate, wheirin he commonly professed himselfe to live, and wheirof he took his stile. Now, Mr. George professed himselfe commonly among the barons, and not the burgeffes. His answer was, in this capacitie he ouned himselfe as a burges of New Galloway. [Vide supra a note as to this folio 323\* *in margine et ipso fine.*]

Fol. 326\*. They voted his commission null. They could not reach Broomhall's commission from Culros; for by receipts of stent, and other documents, he instructed he had trade their, and boor his proportionall share of all burdens with the other inhabitants.

Thus ware all the commissions adjusted and discusst, as the Duke of Lauderdale pleased to order them.

The 5<sup>t</sup> meeting was on the 4<sup>t</sup> of Jully, wheir his Majesty's letter (the Court now being constitute,) was red, and the Commissioner delivered of his harangue; both which see in print. The same Committee which was formerly named are desired to prepare the draught of the A& anent the Supply, against the 8<sup>t</sup> of Jully; being Moonday, which they doe, and carryes 25 moneths cesse for 5 years, 5 moneths each year, at 6000 £ ster-ling per moneth: moft ware expe&ting but 20 moneths. This, at the 6<sup>t</sup> meeting, on the 8<sup>t</sup>, was brought in, voted, and carried, some being only for 20 moneths. The matter of the nixt meeting was the method and way of imposing it; by taxation, pol-money, or assesment of land rent,

according to their severall valuations. The last way of assesment carried it. Argyle, Duke Hamilton, and many ware for pol-money, that the tennandry might have payed a part of it. Some would gladly have understood the Clergie their proportion of this subfidy, in regard they alwayes boasted, and made the countrie believe that, in the taxations, and other publick burdens imposed upon the country, they alwayes payed their proportionall share for their rents and benefices possessed by them. And yet I heard knowing men aver, this was a meer blind, and the countrie had no ease nor releiff by any paiment they made; nor ever would till they told and undertook so definit part as the burrows did, who payed the fixt of all that was imposed. Sir George Mackenzie of Tarbet, and Sir George Gordon of Haddow, appeared very zealously for the Commissioner's interest throw out all this Convention; but was thought a remarkable change of the lubricity and inconstancie of humane affairs.

The last meeting, on the 11 of Jullie, did only approve the draught of the Convention's letter to his Majesty, sent up and carried by the Laird of Lundy. But, because both this Letter, the A&t of the Convention, and many of the other papers mentioned by me, are in print, theirfor I forbear to repeit the contents theirof. Vide the nixt page.

Thus ended this Convention of Estates, wheirin the Duke of Lauderdale conceived he had recovered any thing he lost in the Parliament 1673; and he triumphed mightilie in his successe, and Whythall was made to resound with it, and the service he had done to his Majesty by this subfidy, and in casting England a copie, and in showing the malecontents their how impotent their faction was in Scotland, and not to be trusted Fol. 326<sup>b</sup>. to. Duke Hamilton went away from the penult meeting in a paffion; yet it cannot be denyed but the Duke of Hamilton all alongs behaved himselfe very weell, and showed much acutenesse and readines of wit in his reasonings, and very prudently did take the advantadge to retort his adversaries' arguments against themselves.

75<sup>th</sup> of November

Halton, to make his sone, Mr. Richard Maitland, capable of being elected on of the Comissioners for the shire of Mid Lothian to this Convention, he disponed to him 14 chalders of vi&tuall, with this quality, that it should be lawfull for the disposer to alter it at his pleasure, or to alienat the saids lands without his sone's consent, which was a rare clause.

In the Letter sent by the Convention to the King, some blamed that expression as mean, wheir they say they will not pry unto forraine myfteries; and then, wheir they flatter the Duke of Lauderdale; and then, within 4 lines of the end, wheir they compare the King to God, because both of them never makes use of their power, but to doe good; which some thought, if properly tane, wanted not much of blasphemy. Again, wheir Sir George Mackenzie fayes, (for he and the Bischop of Galloway, Mr. John Paterson, is thought to be the penman of it,) that from God alone our King derives his power. 1<sup>o</sup> Some denyes that. 2<sup>o</sup>. Does not other princes derive their lawfull authority from the same fountain as much as he? 3<sup>o</sup>. This hinders not but the people are God's instrument in conveying the said power, wher it comes not by conquest and immemoriall descent. Wher no compact can be shounen, *quaeritur* if it is to be presumed?

## No. III.

THE DEBATE IN THE CRIMINALL ACTION PERSHUED BE HIS MATIES ADVOCAT AGAINST VMQUHILL MR. JAMES MITCHELL, FOR ATTEMPTING TO KILL THE ARCHBISHOP OF ST. ANDREWS, EXTRACTED AS THE SAID DISPUTE STANDS RECORDED IN THE BOOKES OF ADJOURNALL, 7TH, 8TH, AND 9TH DAYES OF JANUARIE 1678.<sup>1</sup>

DEFENCES.—The lybell or indytement haveing been read, Mr. John Eleis, for the pannell, alledged, That he cannot passe to the knowledge of ane assyse, and that conclufione, that the pannell hes committed murder, cannot be inferred from the subsumption of the lybell; because, be the lawes of this Kingdome, the Civill law, the common opinion of the Doctors, the law and generall custome of all nations, *Nudus conatus et affectus sine effectu*, even in the most attrocious crymes, except treason, parricide, and other excepted crymes, is not punisheable be death; and it wer against all reasone, fieng punishment ought to be proportioned to the crymes, that a naked and simple designe of murder should be punished as murder that had taken effect; *et in criminibus gravioribus et gravissimis, viz. adulterium, furtum, sodomia*, the naked designe is not punished *paena ordinaria*, even by the civill law; and tho *Lex Cornelia de sicariis*, by ane extraordinarie streache, does declare one liable, *si quis cum telo ambulaverit*,

<sup>1</sup> From Lord Fountainhall's Manuscript marked C., p. 53.

yet it is but a statutorie law, and derogat to, by the law of nations, and the speciall law of our nation, in so farre as murder in our law is defyned to be, and hes only place *in interfecitis per feloniam*, and these who wer killed upon forethought felonie. 2<sup>do</sup>, In so farre as the lybell concludes him guiltie of assaffinatione, the same is no wayes relevant, it being both a terme and a cryme unknownen in our law; and be the Lawes and A&s of Parliament of this nation, the subje&ts of Scotland are to be governed by the lawes of Scotland; and though the cryme of assaffinatione wer a poynt of dittay by our law, as it is not, yet it is not nor cannot be pretended that he wes hyred for that effect, neyther is it lybelled. In sua farre as the lybell concludes the pain of death for mutilatione of the Bishop of Orkney, it is answered, The same is no wayes relevant, and the said conclusion cannot be inferred from the subsumption; because the A& of Parliament does only declare dismembratione to be punished as slaughter. 2<sup>do</sup>, The said A& declares dismembratione to be only punished as slaughter, when it proceeds upon forethought felonie. 3<sup>o</sup>, The said A& requyres another qualificatione, viz. that it be pershued be the partie, non of which can be subsumed upon in this case, because it is not lybelled that the Bishop wes dismembred, or had his hand cutt off, but only had a wound in the hand; and the lybell does exprely beare that the Bishop of Orkney gott the shott in the hand accidentally, when the designe wes against the Bishop of St. Andrews, and so wes not upon forethought felonie as to him; and lastlie, the Bishop's nearest of kin doe not concurre nor pershue, which is a speciall requisite in the said A& of Parliament. Likeas, the said A& is exolet, and in no Register can it be made appeare, that any person wes capitallie punished for dismembratione, but, upon the contrare, many accused and condemned in arbitrarie punishments; so that the lybell is no wayes relevant as to that article, for the reasones foresaid, specially fieng dismembratione is not so much heirin as lybelled or pretended; and wheras it is insinuat that the Bishop did languish and die of

the said wound, it is answered, That the lybell is no wayes relevantly conceaved, becaus it is not lybelled that the wound wes *ex sua natura*, lethall or mortall, and it is offered to be proven that the Bishop did live severall yeirs thereafter, did goe about his ordinarie function as a Bishop by preaching, which is a sufficient ground of exculpatione and defence.

In sua farre as the lybell is founded vpon the A&t of Parliament anent invadeing of Councellers; it is answered, this present case does not fall under the compass of the A&t of Parliament, becaus it is not lybelled that the cause of the said pretended invasion of the Archbishop wes upon the accompt he wes in the prosecutione of his Majesties service, but upon the contrare, it may appeare strange to any rational man, *Quorum et cui bono* he could have done it.

As to the A&ts anent invadeing of Ministers, they import no capitall punishment, but only confiscatiōne of moveables, and as to which the saids A&ts are opponed, and as to the A&t 1670, it is posterior to the fact lybelled.

In sua farre as the lybell seemes to be founded on a confession, in sua farre as the confession may be made use of as a sole or conjunct probatiōne, the pannell obje&ts against the famen upon the grounds and reasones following. 1°, If any such confession wes emitted be the pannell, which he hes absolutly denyed in the Lords oun presence, nowayes acknowledging the famen, no respect can be had therto, and it is not probatorie, becaus the famen is extrajudicall, *et extra bancum*, in regarde it is not made in presence of the assyse, who are judges to the probatiōne, which is expressly required by the 90 A&t xj. Par. K. J. 6, which requyres the probatiōne to be led in presence of the assyse and partie; and which A&t of Parliament wes not only made for securitie of pannells as to a just and legall procedour against them, but also that the assyfers to whom the trust of the lyves of the subje&ts of this Kingdome is committed, as to the poyn̄t of probatiōne might not proceed upon fame and report, but upon

a cleare probatione before them; so that if that wer not, the assye wold be altogether deptyved to know how the confession wes emitted, if spontaneously or *ex constantia, vel trepidatione, or spe veniae*; and the use that ever wes sustained in this Court wes, that the assye did find a partie guiltie on a confession emitted before a quorum of the Justices in a fenced Court: *Efto*, the said pretended confession should be sustained probative, for the reasons above represented, as the pannell, with all submision to your Lordship's justice, humbly conceaves it cannot; yet, if any such confession wes, it is null, becaus it wes elicite *spe reniae et immunitatis*; and for proving therof, the pannell does repeat his exculpatione, which he conceaves is relevant in law, and craves the witnessses therin to be examined upon the contents therin. 2<sup>do</sup>, The said confession being emitted, *extra judicium et spe veniae*, as said is, *est in se nulla*, and cannot be confirmed nor validat by the testimonie of anie witnessses whatsomever; and to evidence that the pannell's lyfe wes never intended to be taken upon the said pretended confession, the samen, if any wes, is opponed, by which it evidently appeares, that he wes examined upon oathe, as to the most materiall part of the cryme, viz. his complices, which makes it more then evident, that it being *in materia criminali et capitali*, in which oathes cannot be taken by law, renders the confession null and invalid, at least makes it evident that the lybell hes been restricted *ad civiles effectus*.

REPLY.—MY LORD ADVOCAT infists, in the first place, upon the 4 A& 16<sup>th</sup> Parliament, James 6<sup>th</sup>, by which *nudus conatus*, attempting and invadeing, tho nothing follow, is found relevant to inferre the pain of death. But so it is, that the said Mr. James Mitchell did attempt the killing of the Bishop of St. Andrews, which attempt *devenit ad actum proximum*, the said Mr. James haveing done all that wes in his power; and as to the qualitie adjected in the A& insinuateing the defence that it must be proven that it wes for doeing of his Majesty's service, it is replyed, That this qualitie is inferred, and cannot nor requyres to be utherwayes proven

then by a presumed inference. For the designe of the attempter being ane a&t of the mynd and the secret of the heart, it cannot be utherwayes proven, but simplie be the attempting a Secret Councillor, or ane of his Majetie's officers, against whom the pannell could have no quarrell, but for doeing of his dewtie; and therfor the law still concludes the same, except the pannell will offer to condescend upon another relevant reasone, viz. ane privat feade; for if it wer utherwayes, the A&t wold be absolutely useleſſe, fince any person might attempt or kill a Privie Councillor, it being impossible to prove what wes the designe, and this A&t wes designed meerly to make all attempts against Privie Councillors punisheable by death; for otherwayes it could be no fence nor protection to Privie Councillors, if it wer only granted to them under a qualitie which wer impossible to be proven; nor can this seem hard, since the subjects have only themselves to blame who attempt against the lyves of Privie Councillors, and it wer very ridiculous to think that if the brother of a pannell should kill the Judge or King's Advocat, immediatly after proces, that it wer necessar to prove the designe otherwayes then by the naturall contingencie which obviouſlie aryses from the qualities and circumſtances of the perpetratione; but in this case, as Mr. Mitchell is a perfone who can condescend upon no privie offence betwixt the said Archbishop and him, they being absolute strangers to on another; so, beſyde the presumption of law above ſpecified, it is offered in fortificatione of the A&t, that the ſaid Mr. James ownes himſelfe to be of a profeſſione who hates and exēcrats that hierarchie, and of which ſeſt the unhallowed penmen of Nepthali declare it is lawfull to kill theſſe of that character. 2<sup>do</sup>, It is not tour, and offered to be proven, that Mr. James himſelfe defended that it wes lawfull to kill ſuch, and endeavoured by wrefted places of Scripture to defend himſelfe, to gain profelytes therby; and if need wer, as there is non, it is ſpecifickly and diſtin&ly offered to be proven, that he acknowledgēd the reasone why he ſhott att the Archbishop wes, becaus he

thought him a persecutor of these nefarious and execrable rebels who appeared att Pentland Hills, nor can desigues and acts of the mynd be otherwayes proven, then by such emitted declarationes, argueings, and acknowledgements.

Likeas, in the heall course of our law, the invadeing and attempting any of that sacred function, is still declared æquivalent to killing, and tho the laft A& be posterior, still it is sufficient to demonstreate and declare the mynd of the Parliament anent such attempts. 2<sup>do</sup>, By the Common Law, *conatus* and endeavours *in criminibus atrocissimis* are punishable by death. *ubi reus devenit ad actum proximum et omne quod in se erat fecit*, which is in itself most reasonable, since the atrocitié of the cryme should put the same even beyond ane attempt, and there can be nothing more just then that the extraordinariness of a cryme, should have ane extraordinarie atrocitié; and guilt attempted in atrocious crymes, such as sacriligious assaffinatione is in the eye of the law alse great, and greater then the stealling of a horse or cow, specially where securitie from the effect proceeded from no innocence in the committer, who did all that he could, but from the speciall providence of God, disappointing the effect of a cause he so much hated; and Carpzovius requyres only 3 qualificationes to make endeavours punishable by death. 1<sup>mo</sup>, *Quod eventum erat ad actum morti proximum*. 2<sup>do</sup>, *Quod non steterit per assassinum quin consummaretur delictum*. 3<sup>o</sup>, *Quod occidendum fortuito casu capturam evaserit*: all which concurre but too weell heir, and that *in omnibus criminibus atrocissimis*, *conatus* is punisheable is clear from Gothofred; *vt de conatu* from Cavorannus, and particularlie in the case of assaffinatione, *totidem verbis assassinus tamen nihil prodesse debet solusque conatus capite puniendus*: a great instance wherof is given in a decision by Gothofred in the Senate of Savoy, wheir deathe wes inflicted upon a person who but struck with a batton. And wheras, it is pretended that assaffinatione is no cryme in our law, and that it is only inferred where the designe of murder proceeds from the committer's takeing money; it

is answered, That that part of the defence is most groundlesse, and our nation will be more barbarous then the Laplands and Tartars, if the lyeing in wait with a constant designe to kill clandestinely, *per infidias*, any person who had never offended, should not be raised to a higher degree of detestatione then ordinare murder; for tho the law does not alwayes punish a meer endeavour when designed such who lesse offended wher nature pleadeth some excuse from the greatnes of passion and recentment, or wher the party gaines some occasion by doeing the wrong when the fuddennes of the designe allowed of no tyme to consider or repent; yet when a person, after mature deliberatione, ripens his oun villany, and refists the motions of reasone and inspiratione of Almighty God, by lyeing in wait to kill a person who never offended, the law thinks the Commonwealth can never be secured so longe as such a viper is alyve, who wanted nothinge but opportunity to kill mankinde on by on; and the specialitie of takeing money, is only demonstrative and not restrictive, fince the guilt in this and such lyke cases is greater and much more dangerous then that of takeing money, for he who takes money will not kill but in darknes, and wher he may escape; but the sunne, and the croce, and the confluence of the world cannot secure against murder, wher the partie thinks the a&t merits Heaven, or att least wher he thinks that thesse of his perfwafione will ryse in a tumult in the streets for his defence; lykeas the law has inferred death *ob conatum* in the case of *raptus*, robbery, much more should it inferre death in this unparallelled and execrable cryme.

And as to what is alledged against the A&t of invadeing of Ministers, it is answered, That the first A&t appoyns that it shall be punished with all rigour: and the 7<sup>th</sup> A&t Charles I. and the last A&t is sufficient, tho posterior to the cryme, to declare what was the meaneing of that generall, viz. punished with all rigour; and fince our law makes the attempting of such as are doeing his Majestie service capitall, that generall ought to be extended to death, fince lesser crymes and other crymes are for the same

reasone punishable with death; nor can ther be any hazard in this, since ther is a law for the future, and no man shall ever die for so greate a cryme in our nation.

Wheiras it is alledged, That heir the pannell only did confess upon hopes of lyfe; it is replyed, 1°, A promise of lyfe from a Judge who could not grant the same cannot defend, especially wher no threatening preceeded, and wher it is cleare that what wes confessed, wes founded on uther presumptions *et indicia*; nor is this relevant except the pannell could offer to prove first threatening to the fear wherof he yeelded. 2°, That he expreslie pactioned that his confession should not operat against him, which is verie cleare from Bossius *tit. de Confess. per tortur. num. 12*, wher he states the case, and concludes that a spontaneous confessione, tho lyfe wer promised, does not defend; and is the guilt the lesse that a Judge promises, and if this wer sufficient, everie Judge might make himselfe a Kinge, and grant remissions att his pleasure; and tho this may weigh with the Judge who promised, yet the law consideris the partie confessing still guiltie, and so does never secure him; *et quod potest condemnari tenent omnes. Cod. de iis qui ad Ecclesiam effugiunt. Alciatus lege de verborum significatione*, and Clarus himselfe fayes, *Ego suspicor opinionem Caii esse magis communem*, but giveing his oun opinion rather as a privat man then a lawier, fayes, *Ego tamen non condemnarem ad mortem nisi alijs indicis fuerit gravatus. Ergo reus indicis gravatus est morte plectendus*, which is most just and reasoneable, for tho the law be jealous wher a meer fillie innocent confesses to a Judge who may terrifie him, or have any interest in causeing him confess, and lay the blame on his friends; yet wher the pannell's oun confessione proceeded from a person suspected be all the world, by a perfone who publicklie in all places since hes owned the deed, who fled upon that accompt, who being taken with unlawfull weapons unfit for his professione, and the specifick weapons which committed the attempt; who condescends upon all the circumstances, and

declared that he gloried in being a martyre upon that accompt, in being seen runne away with a pistoll in his hand, in being found out in a thousand lies and prevaricationes when he wes examined, and had renewed his confessione publickle; it wer but to scorn the law and maffacre mankynd to think that a confession so adminiculat should not hold the confesser guiltie, who can alleadge nothinge of any threatneing used against him by the Judge, as severe, rigid, unjust, or partiall. But the confession is alleadged to be made upon promise of lyfe given by my Lord Chancellor, whose benigne and gentle temper frees him from all suspicione; and by the proponeing of this exculpatione acknowledges *verisimilis*, wheras heir this confession is adminiculat by many other circumstancies—such as persons who saw him run away—by his owning of the principle fince his flieing; and so that heir neither can he instruct why he retracts, and the thinge confessed is adminiculat by many other circumstancies *et indiciis*. As to the objection founded upon the Act of Parliament, that all probatione must be in presence of the assyse; it is replyed, That the heall force of that Act is greatly mistaken, for the designe of the Act was to correct a barbarous custome, wherby accusers wer allowed to solist and to produce to them such wrytts and witnesses as they pleased for probatione, to preclude the pannell of what he could say against the same, fince false papers might be throwen in as confessions and prooffes; but that cannot reache this case, wher a confession is produced before a pannell and his procurators, and they heard to object against the same; nor can it be urged from this Act that no paper can be relevant but what is owned be the pannell in presence of the assyse; for we daily see that letters produced under the pannell's oun hand, tho he should denye his subscription, will be sustained, and it will be sufficient to prove be witnesses, or by comparison of letters that he did subscryve. Likeas, that Act of Parliament does not exclude that confession before the Lords in matters of falsehood, and decreits therupon may not be probative before the Justices.

Likeas, confessiones taken before the Justices—tho no affyse be present—doe, without all controverfie and debate, prove the cryme; and yet neither can the Justices condemne without ane affyse, nor does that Act of Parliament militat more against that case, nor this: and in the case of Findley M'Nabbe, a confessione taken in the Tolbuith without a fenced Court, and before ane Judge, wes sufficient to inferre the cryme of death, both by the Councell and Justices; and it is admired, how it can be thought that presumption can be sustained as the foundatione of a criminal sentence as wee dayly fee, and that witneses which in effect are but presumptive; and yet a man's oun confessione, emitted seriously and in cold blood, should not be sufficient, and as ther could be nothinge more dangerous to the Commonwealth [than] that crymes should be rendered thus unsearcheable; so what hazard can there be to the people on the other hand, or the pannell, when they are made their oun judges, and to take off all possibilite of danger, it shall be allowed to them to prove terror, force, innocence, or mistake; and this probatione hes been in all ages and nations sustained as uncontrovorted, as David ordained the person who said he killed Saul, immediatly to be execute without further inquirie, giving as the undoubted reasone, that he had condemned himselfe out of his own mouth, and which is regifrat in Scripture to secure the image of God against those who would deface it; and if such confessions should be sustained in anie case, much more in this, wher the nature of the cryme is atrocious, and the manner of the discoverie is extraordinarie difficult; and if either atrocitiie or difficultie prevails with lawiers to remitt somewhat of its extraordinarie rigour in exacting cleare probatione, as wee see *in criminibus exceptis et criminibus domesticis*, much more when both these concurre, ought a man's oun confession be admitted; and wheras, ordinarie pannells are penitent first when examined, the horrour of the crymes softneing their hearts, their confessions then should not prove, it wer impossible and fruitles to expect that after they are imprisoned among

a companie of other malefactors, and after they have the aid of lawiers to wait upon them to teach them the arte of retractation, and that their conscience growes callous and acquainted with the idea of their oun cryme, what fincere confession may be then expected from them.

MY LORD ADVOCATE declares he does not infist against the pannell for conversing with rebels att this tyme, and infists upon the shooetting att a Bishop or Minister, being before the late A&t of Parliament 1670, to inferre ane arbitrary punishment, and infists upon mutilatione as capitall, upon the A&t of Parliament anent demembratione, which is *reddere membrum inutile*; and a man is alse much dismembred when he hes ane useles hand, as if he had no hand; and infists upon the 28th A&t, Parliament 3<sup>d</sup>, James IV., wherin slaughter, and mutilatione upon forethought felony, are equi-paratt, and the pannell declared to be punished be death in both thesse cases; but referres the punishment of mutilatione to be qualified by the Justices according to what shall be found heir proven, and to what hes been the custome of the Justice Court formerly in such cases.

DUPLY.—SIR GEORGE LOCKHART duplyes, as to the defence founded upon the 4th A&t 16th Parliament, King James VI. That the lybell is not relevant, not condescending upon the exprefse qualificatione which the A&t of Parliament requyres, is nowayes eleided by the alledgeances contained in the reply; for 1<sup>o</sup>, The Lords of Justiciarie wold be pleased to take notice that ther is no specialitie in the case of this A&t of Parliament as to Privie Counsellors, but that it extends to all his Majesty's officers, and, consequently, the meanest officer being invaded in the termes and under the qualificatione contained in the A&t of Parliament, might pleade the benefite theirof; and if the lybell should be sustained in generall termes, without the exprefse qualificatione, the simple act of invasion of a Lyon Herauld, tho neither death nor wound followed on it, would inferr the pain of deathe; but that no such thinge is the meaning, nor can subfift with the A&t of Parliament, is so cleare and evident, that it wes impossible for

the witt of man to expresse the qualificatione to be lybelled, and positively proven, in more plain and direct termes then is sett doun in the said A&t ; in sua farre as the A&t of Parliament requyres, be way of provision and conditione, in the statutorie part therof in thir termes, “ It being verified and proven, that any of the saidis Councillors, seffioners, and officers, wes pershued and invaded for doeing his Majestie service, shall be punished to the death ;” and ther is greate reason and necessitie for this qualificatione, becaus the A&t of Parliament intending, contrare to the generall custome of nations, and of this Kingdom in all other crymes, that *conatus et attentatum*, which is only relevant in the cryme of treason, should be reputed *crimen consummatum* in case of invasion of any of his Majesty’s officers, therfor the law requyres this qualificatione in matter of fact ; ffarther, that it should be verefied, that the person invaded wes doeing his Majesty’s service, in which case the cryme had a respect, and in construiction of law as done against his Majesties authority, which he wes then executeing ; and heir this qualificatione, in matter of fact, that it wes for doeing his Majesty’s service, is not so much as lybelled, and in the opinion of all lawiers, as may appeare by Jul. Clarus, § *affassinum*, 2, *ubi agitur de imponenda pena alicujus constitutionis oportet quod in illo casu verificantur omnes qualitates in ipsa constitutione expressæ, alias pena non committitur, et hæc (sayes he) est doctrina communiter ab omnibus recepta*, and most especiallie when it is ane extrinlick qualitie and aggravatione. But when it is a qualificatione requyred by law it selfe, as *integrans delicti*, and as Gomes hes it, *alterutrum pœnae* ; and therfor it most be *totidem verbis* lybelled and positively proven.<sup>1</sup>

And as to that pretence that it is to be presumed and inferred from the circumstances, and the way and manner of committing the fact it selfe, and that *propositum* and *designe* cannot be otherwayes proven *nisi per indicia et*

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<sup>1</sup> [Marg.]—See *Lanfrancus Balbus, Decisi. 223, Andreas Gayll, de pace publica, cap. 13, numero 6.*

*conjecturas*, It is duplyed, The qualificatione requyred by the A&t of Parliament is *toto caelo* different from the designe; for if a person did invade ane of his Majesty's officers, doeing his Majesty's service, and wold pretend that he had no designe to invade, certainly the pretence wer absurd, and in that case the designe *præsumitur ex natura attentati*; but the dischargeing of his Majesty's service is not a designe, but a matter of fact, which confists in ane extrinfick action, and most be proven, and may and does often occurre; as, for instance, if a magistrat should be invaded in the actuall execution of his Majesty's authoritie; or if the invader should be transported so with rage, as when he invades a Judge to tell him that it wes becaus he hes unjustly decerned, thesse and the like cases, are indeed in the termes of the A&t of Parliament, and the simple invasion, tho no wounds followed, being directly levelled against his Majesty's authoritie, *nudus conatus et affectus delinquendi reputantur pro effectu*; and as this is cleare from the exprefs words of the A&t of Parliament, and which being *in materia correctoria et criminali* is stricte to be interpret, so it is also unanswered evinced from the A&t of Parliament, King Charles I. of blessed memorie, by which it is proven that the invasion and violence done to ministers is punisheable conforme to the A&t of Parliament 1587, to which it relates, which is confiscatione of moveables; and declares, that the said A&t is to be extended to Archbishops and Bishops, from which the pannell's procurator argues thus: If by the posterior A&t of Parliament *in anno 1633*, the invasion and violence done to Bishops is not punisheable with the pain of death, but only ane arbitrarie punishment, how is it possible, that the 4th A&t, Parliament 16th, James VI., should inferre the pain of death upon the invasion as it is circumstantiat and lybelled, wher nothinge is lybelled but that the Archbishop wes invaded, who wes a Privie Counsellor, and not the qualificatione that is requyred by the said A&t of Parliament, that it wes for doeing of his Majesty's service.

And as to that alledgeance that the pannell cannot condescend vpon

any private ground of quarrell, or other reasone why he did invade the Archbishop. It is answered,—If this alledgeance wer sustained, it wer contrare to the Act of Parliament lybelled upon, which does not requyre the pannell to prove, but that it must be tryed and verified that the invasion wes for doeing of his Majesty's service; and so his Majesty's Advocat most prove the famen by a cleare and positive probatione as a poynt in matter of fact. And as to that pretence that the pannell did glorie that he had committed the fact and invasion lybelled, and endeavoured to infuse the same and perswade others that it wes lawfull; it is duplied, That as the saids qualifications are altogether disowned, so they are no wayes the qualificaciones in matter of fact requyred be the A&t of Parliament, viz. That the invasion and violence wes for doeing of his Majesty service, which is indif- pensiblie requyred upon the reasones above mentioned; otherwayes the A&t of Parliament should have said no more; but that all invasion of his Majesty's Privie Counsellors, or other officers, should be punished with death; wheras, the A&t of Parliament thought it just and necessar, and fitt for all men's securitie, that ane fingle a&t of invasione of ane of his Majesty's officers, however it might be punished *pœna arbitraria*, yet should not import or inferre the pain of death.

In sua farre as the dittay is founded upon the common law, and its *affa- finium* in which *conatus et attentatum habentur pro crimine consummato*; it is answered, The dittay is nowayes relevant, becaus it is not founded upon any Law or A&t of Parliament of this Kingdome, and the common Roman Law cannot be the foundatione of criminall dittayes, wherby to draw in hazarde the lyves of any of his Majesty's subje&ts; likeas there is cleare, expresse, and positive A&ts of Parliament to the contrare, as the 48 A&t Parl. 3, Ja. 2, Act 79, Par. 9, Ja. 4, declaring that the lawes of no other realme are to be regarded, especiallie wherupon to found criminall indytement. And albeit be the common law, *conatus in homicidio*, especiallie wher it wes *homicidium dolosum*, and designd to be committed *pro-*

*ditorie et per infidias*, wes punished as *crimen consummatum*; yet all lawiers aggrie, as may appeare by Jul. Clar. Quest. 102. Farinatius, Q. 80, and by the authorities by them cited, that by the generall custome of all nations *in omni genere homicidii, affectus, conatus et attentatum*, is not punishable *paena ordinaria delicti*, and so cannot inferre the pain of death, as is concluded in this indytement. And as to that pretence that the cryme lybelled is the cryme of assaffinatione, in which *nudus conatus* is sufficient, especiallie *si devenerit ad actum proximum*; it is answered, 1°, That all lawiers doe aggrie in this, that *crimen affassinii* is only wher a person does hyre, and conduce another to commit the same *interveniente pretio*; and for which Jul. Clar. § *affasin*. wher he so descriyves the cryme and Math. *de Criminibus* does so descriyve the same, and does exprefly affert that unleffe money or rewarde intervein, the cryme of assaffinatione cannot be committed, where the words are *crediderim tamen nisi merces certa sceleri proposita et constituta fuerit, siue in specie seu corpore, siue in pecunia numerata non posse eum videri affassinum*, and there is no lawier extant that did ever otherwayes descriyve that cryme; and ther is greate reafone why money or reward should be confidered in the constitution of this cryme, becaus the law did confider the cryme with respect to the hazard, and the hazard lay wher perfons wer hyred and conduced by infidels, by giveing of money or other rewarde to kill Christians; and albeit even in the proper cryme of assaffinatione it selfe, in some particular nations wher the said cryme wes too frequent, as in Italie, *conatus* is punisheable, and Jul. Clar. in the same, and others, doe maintain that by the generall custome of most nations, in that precise cryme of assaffinatione, *conatus seu attentatum* is not punisheable with the pain of death. But the pannell hes no reafone to infist upon this, this matter of fact lybelled being no wayes the cryme of assaffinatione, but only that which lawiers call a designe to committ murder, *proditorie et per infidias* in which

all aggrie that by the custome of all nations, *conatus faciendi non reputatur pro facto.*

As to that poynt of the dittay founded upon the mutilatione of the deceast Bisshop of Orkney, conforme to the 28 A&t, Parl. 3, Ja. 4th; it is answered, That denyeing that the deceast Bisshop of Orkney wes mutilat so, albeit it could be proven, it cannot inferre the pain of death; ffirst, becaus it is cleared by the said A&t of Parliament, that it is not in the case of mutilatione but dismembratione, and it wer a strange imaginatione to thinke that if a partie wer mutilat, or lost a finger, that the pain of death could be inferred, and ther is a great difference betuixt demembratione and mutilatione; mutilatione being only ane inabilitie or privatione of the use, whereas demembratione is the inteir losse of the member, and it is a principall in law, that A&ts of Parliament, especiallie *in causa criminali et capitali* cannot be extended, *de causa in causam etiam ex identitate vel paritate rationis*, and that *corticis verborum adhaerendum est et casus amissus habetur pro omisso*, and heir ther is not paritie of reasone, both the prejudice and deformitie being farre greater in the case of demembratione then mutilatione.

And wheras it is pretended, that tho the pannell's confessione had been elicite *sub spe impunitatis*, that yet it is not sufficient wherupon to liberat from capitall punishment, becaus ane judge cannot remitt ane cryme; and that Boffius and others are cleare that notwithstanding of such a confessione upon promise of immunitie, yet a judge may and ought to condemne *ad paenam ordinariam delicti*; it is answered, The pretence does not elide the defence, becaus supposeing it shall be proven that the confession wes elicite *sub spe venie*, and upon assureance of lyfe, such a confession so elicit cannot be a ground wherupon to violate the faith and impunitie given, and farre lesse can such a confession, tho any could be proven, being retracted, be considered as a confession, and as to which, law

and lawiers are very cleare and positive: The law is *Lex 3, Cod. de custodia reorum*, and lawiers, as may appeare in *Math. de Criminibus, quæst. 16*, wher his expresse words are, *Quærunt, an confessio promissa impunitate, et spe veniae elicita sufficiat ad condemnandum? Respondendum non sufficere: tametsi enim in judicis potestate non sit, promittere cuidam impunitatem, adeoque ex promissione non obligetur, tamen dolo extorta est, et per hanc fraudem etiam innocentibus illaqueari possent.* And Boff. in that title *de Confess.*, after he has stated the case, resolves it thus, *Tutius tamen est ut dicamus requiri perseverantiam, et est ex mente doctorum et cum ratione quin negari non potest quin talis confessio sit obumbrata, and fayes it wer against humanitie it selfe to condemne ad pænam ordinariam delicti in such a case; and Jul. Clar., cited be his Majesty's Advocate, *ego non condemnarem ad mortem*: and which indeed is the constant and irrefragable opinion of all lawiers, and practize of all criminall tribunals. And whereas it is pretended, that Jul. Clar. subjoynes thesse words, *Nisi aliis indiciis sit gravatus*, and his Majesty's Advocat condescends upon severall presumptions. It is answered, If his Majesty's Advocat will lay asyde the confessione, and adduce such a presumptive probatione, wherupon the pannell may be condemned, then he may plead the benefite of that qualificatione. But the presumptions condescended upon are remote conjectures, and no wayes concludeing, and the pannell, after the alledged committing of the fact, did returne and live peaceable for severall yeirs, and denies the fact, and cannot be otherwayes convict therof; and if any pretended confession should be made use of, either *per se*, or *per modum adminiculi*, it cannot be divyded from the qualitie under which it wes granted, which the pannell offers to prove wes upon expresse assurance;—And wheras it is pretended that the granting of ane assurance or impunitie is upon the matter a remission which no inferior judge can doe, but that, notwithstanding, he may and ought to condemne,—it is answered, (1<sup>o</sup>) It will appeare by the probatione of what character and qualitie the granter of the assurance wes. (2<sup>o</sup>.) Lawiers do not confi-*

der whither a judge *potest veniam concedere* or remitt a cryme, but a confession being elicit *sub spe venia* is not a full and absolute confession, but a qualified, and cannot be made use of, and the qualitie not performed and made good; and it wer a prejudice to publick interest, and a way to preclude the ingenuitie of all confessions, if, notwithstanding of the interpositione of publick faith, and the granting of assurances, and the eliciting of confessions *sub spe venia*, the confession might be made use [of] and the qualitie and condition upon which it wes emitted altogether negle&tet, which is dounright inconsistent with the opinion of lawiers and the practise and customes of criminall judicatories. And as to what is alledged, that tho this confession had not been emitted before the Lords of Justiciarie, yet it wes not extrajudicall or revockable, becaus it wes deliberatly given, and before a committee who had authoritie from the Lords of his Majesty's Privie Councell, it is answere, That that poynt is of extraordinarie importance and consequence as to the lyves and fortunes of his Majesty's subjects, and as to the Lords of Justiciarie and procedour of the inqueist, who are judges of the probatione. And, therfor, it is represented in behalfe of the pannell, that admitting any pretended confession should be produced, yet, if it wes not emitted before the Lords of Justiciarie, it is not a judiciall but extrajudicall confession, *et fidem non facit*, as to the probation. And as to which (1<sup>o</sup>) their is ane universall concord in the opinion of all lawiers, and in the practize and customes of criminall judicatories, and as to which the Lords of Justiciarie are defyred to cast ther eye upon all who have written upon this poynt, and, as Clarus sayes, *non invenies dissentientem in mundo*; and it is a strange custome if all lawiers and the custome of all nations should have been halucinat in this poynt, for which the pannell's procurators cite Jul. Clarus, quest. 55, Farinatus, Q. 81, and many other lawiers are lykewayes cleare that confessions emitted *coram judice competente, sed non sedente pro tribunali*, is but ane extrajudicall confession, and much more wher it is *confessio emissa coram*

*judice incompetente*, and when the question is who is to be reputed *judex incompetens*, it is positively resolved that *omnis judex est incompetens* who could not proceed *ad condemnationem* as to the cryme as to which the confession is emitted; and certainly tho any confession wer produced, emitted before the Lords of Privie Councell, they have no criminall jurisdiction, so as to proceed *ad condemnandum in crimine capitali*, that being cleare by Craige, lib. 1, dieg. 8, that *ex eorum statutis nec periculum vitæ, hæreditatis, aut omnium fortunarum subire posse*. And wheras it is urged that the Lords of Privie Councell have a mixed jurisdiction, and may proceed be way of precognition, *et per modum inquisitionis*, and may resolve doubtfull cases and qualifie sentences,—it is answered, That it is not denied that the Lords of Privie Councell have and doe verie weel deserve that jurisdictione; but as to criminal jurisdiction in capitall cases, it is only competent before the Lords of the Justiciarie, and the precognitions or prævious inquisitions tend not *ad condemnationem*, but only as to this, whither to stoppe or remitt to the Lords of the Justiciarie; and nothing is confidered as a judiciall confession but wher ther is *formatus processus*, and wher a partie is called *coram judice competente*, and he is *sub instanti periculo vitæ*, and knowes that the infallible import of his confession is to that verie effect for his condemnation, non of which can be pretended wher the confession is emitted *coram judice incompetente ad condemnandum*.

And wheras it is alledged, That a confession in the opinion of Lawiers cannot be retracted unlesse the partie could *docere de errore*, and purge his innocence, and did it *ex incontinenti*,—it is answered The alledgeance is groundles; for tho a confession wer emitted *coram judice competente pro tribunali*, it might be retracted *ex incontinenti*, if he wer able *docere de errore*; and ther is no lawier ever requyred it in other termes. But wher the confession is emitted *coram judice incompetente fidem non facit quoad probationem delicti*, and may be retracted eyther *ex incontinenti*, or

Omnino, vide  
Lanfrancum  
Balbum de-  
cisione 104  
& 462.

*ex intervallo*, and without shueing of any error or purgeing of innocence such confessions in law not amounting to any probatione, no more then as lawiers argue if the depositiones of witneses should be taken *in uno iudicio*, wold *fidem facere* either *in causa civili aut criminali in alio iudicio*; and certainly ther is lesse reasone for confessions wher parties disoune the same and retract<sup>s</sup> them if emitted, and much more heir, wher the pretended confession wes elicit *sub spe venia*; so farre wes the pannell from thinking that the emitting of his confession wes in order to his condemnatione, speciallie seing it neither is nor can be proven that the said pretended confession wes so much as judiciallie given in face of the Councell, wher his Grace the D. of Lauderdale, being then Commissioner, wes present, and the pannels procurators will not debate the import of the same, but remitt it to the Commissione it selfe in case it be offered to be proven that the confession wes emitted judicially before the P. Councell: And wheras it is alledged, that the A& of Parliament, A& 91, Par. ij J. 6, ordaining all probatione to be led in presence of the affyse, does not concern the case, and is misunderstood, sieing heir the confession will be produced in presence of the affyse,—it is answered, The A& of Parliament is cleare to the contrare, and can admit of no such interpretatione; for albeit the narrative of the A& of Parliament wes only *causa impulsiva*, and the statutorie part of that A& of Parliament is cleare and positive, that all probatione should be deduced in presence of the affyse, and of all uther probatione ther is the greatest reasone that the verie a& of confessione should be in presence of the affyse, who are judges to the probatione, and who are to proceed upon oathe, and whose consciences are to be satisfied and instructed as to the way, and manner, and conditions, and termes wherupon such confessions wer emitted, all which are concealled wher ther is nothing produced to them but a confession taken without ther presence, especiallie sieing the pannell alleagdes and offers to prove, that severall poynts of fact and other particulars wer condescended vpon

and declared, non of which are mentioned in this pretended confession, all which should have been insert, and could not be divyded as being *in articulo connexo*.

And wheras it is pretended that a decret pronounces by the Lords of the Sessiōn is *probatio probata*, and wherupon assyfers may and ought to condemne,—it is answered, The argument is *in materia disparata*, and does not concerne the matter of confession, and is only in a speciall case of falsehood, and that upon a speciall reasone. Beacaus the investigatione of falsehood depended upon a tryall and concurse of many and violent presumptions, which may requyre a longe tract of tyme and examination of parties and witneses, it wer impossible that such tryalls could be deduced before ane inqueist, thesse depending severall yeirs many tymes before the Sessiōn before they can be brought to a close. And therfor law and custome in that case hes sustained a decret before the Lords of the Sessiōn as a probatione *in judicio criminali*. But it is absolutely denied that it wold hold in any other cryme, and certainly if the cryme of theft wer pershued civilly before the Lords of Sessiōne, *ad damnum et interesse*, tho the theft should be proven or confessed before the Lords of Sessiōn, it wold not *fidem facere in judicio criminali*, as is evident by the authoritie of lawiers, who agree, that *Acta probatoria in uno judicio fidem non faciunt in alio*; nay, which is more *acta probatoria in uno processu fidem non faciunt in alio processu coram eodem judice*; and as to the instance of the pratique of M<sup>o</sup>Nabbe, the pannell oppones the same as not probative, but, on the contrare, it does appeare in the case of Frazer, in the yeir 1641, that Sir Thomas Hope, being then his Majestys Advocat, declared, that a confession emitted before a shireff-depute, who hes a criminall jurisdiction in some cases in the fines allowed be law, and who, beyond all doubt, is judge competent *per modum inquifitionis*; yet so convinced wes he that it wes an extrajudicall confession, that he only infisted theron *per modum administruli*, and joyned it with the other probatione mentioned in that pratique

which wes *per se* convincing and sufficient. As also since his Majesty's happy restitution, in the case of on Robertson, altho the confession wes emitted before on of the Lords of Justiciarie and his Majesty's Advocat for the tyme ; yet he wes so convinced of the insufficiency of the same, that after it wes produced *per modum probationis*, he took up the famen even in that estate of the process when the affysse wes sworne. And as to the instance of divinitie in David's practise, it does not concerne the poynt of law, and cannot be made appear that the partie retracted his confession, and it is a pratique that eyther *nimum* or *nihil probat*. In respect whereof, &c.

*Followes the Interlocutor.*

The Lords Commissioners of Justiciary having considered the dittay and debate relating thereto, find that article of the dittay founded upon the 4th A&t in 1600, bearing the pannell's invadeing of St. Andrews ane Privie Counsellor, for doeing of his Majesty's service, relevantly lybelled ; his Majesty's Advocat proving the presumption that it wes for St. Andrews persecuting thesse at Pentland Hills, or some words to that purpose, relevant to inferre the pain contained in the said A&t of Parliament, and remitts the same to the knowledge of ane Affysse. And lykewayes, that part of the dittay anent invadeing Bischops and Ministers, to inferre ane arbitrarie punishment, and the wounding of the Bischop of Orkney lykewayes to inferre ane arbitrarie punishment, and such lyke finds the confession emitted before the Committee of the Counsell, and renewed in presence of the Commissionar and Lords of his Majesty's Privie Council, judicall, and cannot be retracted ; and lykewayes, that the same wes emitted from promise of lyfe, finds the same relevant to secure the pannell as to lyfe and limb, in case the defence shall be proven, reserving to the said Lords to inflict ane arbitrarie punishment upon the pannell, and remitt all to the knowledge of ane Affysse.

## No. IV.

AN ACCOUNT OF THE ARRAIGNMENT, TRYAL, ESCAPE, AND CONDEMNATION OF THE DOG OF HERIOTS HOSPITAL IN SCOTLAND, THAT WAS SUPPOSED TO HAVE BEEN HANGED, BUT DID AT LAST SLIP THE HALTER.<sup>(1)</sup>

SIR,

Knowing that you are desirous to hear newes from *Scotland*, I thought fitt to shew you that that A&t whereby all publick officers are obleadged to take the Test, is rigorously put in executione, and therby many persons, baith in kirk and state, throughout the haill kingdome, by reasone they are not free to take the said Test, are incontinently turned out of their places; whilk severitie gave occaisione to a wheen loun ladds, belonging to the hospital of Hariot's Buildings in *Edinbrough*, to divert themselves with somewhat like the following tragi-commedy.

The lounes it seems fell intil a debate amongst themselves, whither or no, ane Mastiffe Tyke, who keept the outmost gate, might not, by reasone of his office of trust, come within the compasse of the A&t, and fwa be obleadged to take the Test, or be turned out of his place.

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<sup>(1)</sup> See page 55 of the present volume for Lord Fountainhall's allusion to this incident, intended as a burlesque on the Test Act, in 1681. It is given from the original broadside, printed probably at Edinburgh, although, for the sake of concealment, it has London on the imprint.

The Tyke therupon was called and interrogat, Whither he wold take the Test, or run the hazard of forfaulting his office, whilk was asked again, and again.

The filly Curr boding no ill, answered all their queries with silence, whilk had been registrat as a flat refusall, had not on of the lounes, mair bald then the rest, taken upon him to be his advocat, who standing up, pleaded that silence might as wel be interpreted assent as refusall, and therupon infisted, that it might be tendered to him in a way maist plaufible, and in a poustar maist agreeable to his stomack.

This debat lasted not long, until all agreed that ane Printed Copy should be thrumbled, of as little boulke as it could, and therafter smured over with tallow, butter, or what else might make maist tempting to his appetit; this done, he readiely took it, and after he had made a shift, by rowing it up and down his mouth, to separat what was pleasant to his pallat; and when all seemed to be over, on a sudden they observed some what (ilke piece after another) droped out of his mouth, quhilk the advocats on the other fide said it was the Test, and that all his irksome champing and chowing of it, was only, if possible, to seperat the concomitant nutriment, and that this was mikel worse then an flat refusall, and gif it were rightly examined, would, upon tryal, be found no less than leiseing-making.

To this his advocat opponed, That his enemies having the rowing of it up, might perhaps (through deadly spite) have put some crooked prin intil it, and that all the fumbling and rowing of it up and down his mouth, might be by reason of the prin, and not through any scunnering at the Test it self, and that ther was nought in the hail matter that looked like leiseing-making, except by interpretation, and his adversaries allowed to be the only interpreters. Yea, what was mair offered, that his client should have a fair tryal before competent judges, quhilk was unanimously granted.

A Court therupon being convocat, ane affize constitut, the indictment being read, ther fell out warm pleading upon baith fides amongst the Advocats; those against him pleaded, that he was ou'r malapert to take so mikel upon him, and that the chaming and cherking of the Test belonged nought to him, nor to none like him, who served only in inferior offices, and that his trust and power reached nought so far, and by what he had done, he had made himself guilty of mair nor a bare refusal, according as was libelled. Those for him pleaded, That he could be guilty of nather, since he had freely taken it in his mouth, willing to have swallowed it down, and that ther was no fault in him, bot in its self, that it passed not, since it fell a sqwabeling, one part of it hindering another, fighting in his hasse, and if [it] wold have agreed in its self, to have gone down all one way, he wold blithly swallowed it, as he had done many untouthsome morsel before, as is well known to all the Court; ane other pleaded, that he had officiat very dutifullly, and was never known to balk his trust: bot that was answered with this, all his former good service could not excuse his present guilt: guilt, qwoth an other, if that be guilt he hath many marrowes, and why should he be worse handled then all the rest? Bot whatever could be said in his favors, when the busines came to the Jury, they found that he had so mangled the Test with his explanatory tongue and teeth, and swa misleardly abused it with his slaver, that it was right soon agreed upon to be at least Interpretative Treason; and, consequently, brought him in guilty of Leiseing-making. Wherupon he was ordered to close prison, till ane other time that the Court call him forth to receive his doom, to be hanged like a Dog.

(As the lounes was removing him from Court to Prison, ther chanced a Curat to be present, who asked what was the matter,—what ailed them at the Dog? one of the limmers answered, That he being in publick trust, was required to take the Test, and had both refused it and abused it, wherupon he was to be hanged. The Curat storming, said, They de-

serve all to be hanged for such presumptuous mockery. The lounes laughing aloud, cryed out, with one consent, That he and his brethren deserved better to be hanged then any of them, or the Tyke eather, fince they had swallowed that which the Tyke had refused.)

This surpriseing verdict, you may be sure, created no small grumbling of the gufforne, with the advocats and others, who spared not to utter ther privat sentiments, and blaze abroad the arguments *pro* and *con*, and what further might have been homolagating, had not the Court haifst to have the Tyke's life; take a few of them as they come to hand.

Some suspe&t deadly fewd in the Chanselor of the jury, alleadging that ane enemy was not fit to be a judg; this was answered with, that he was of more noble extract then to stain his honor with so base an act, and that his own reputation wold make him favored; an other obje&t, that a Tyke's refusing so good a Test, might be of ill example to creatures of better reaſon; to this a pakie loun answered, that it could not be good, fince Lyon Rampant, King of Tykes, nor none of his royal kine, wold not so much as lay ther lips to it, far leſs to swallow it, and therfore—this was interrupted by on who was a principal limmer among them, (a contradiction reconciler,) who wold needs help him with a logical distinction, wherby he, like ane Aberdeen's man, might cant and recant again.

But he was soon snibed by another, who said, that the Tyke wold nather sup kail with the Divel, nor the Pope, and therefor needed not his long spoon; well, said ane other, this is mair nor needs, fince we are all sure that the Tyke cold not have kept his office so long, bot he moft needs have swallowed many a buttered bur before this time, and it was bot gaping a little wider, and the hazard was over. Nay, qwoth his nighbour, the hazard wes greater then ye imagine, for the Test, as it was rowed up, had many plyes and implications in it, ane contrary to another, and fwa the Tyke might have been queikened ere it had been all over, ilk ply as it were rancountering another wresling and fighting in his hafs.

Prait, quoth another, this last apologie is needless, since the Tyke hath (in my opinion) swallowed the better part, if not the hail Teft, though I most confess he hath vomited it up again, let us therfore try him, if, like a Dog, he will lick up his own vomit, bot this proje&t was univerſally rejected, baith by the maift charitable, as bootleſs, and by the mair ſevere, as to great a favor.

Favor, (qwoth a chield, who had been [ſleeping] all the while, and only heard the word favor,) what, ſhow favor to ſuch a loun as he? na, rather let him who hath the longeft arm, thruft it fo far down his throat, ſo that another may pull it out at his tail, then be thus faſht with him, though he were my own brother, and then we may be ſure he hath taken it, and all the parts of it, bot this only moved laughter, for none was found that wold undergo fo foulſome a hazard.

But to return to the Tyke, for ſome will be curious to hear what came of him, matters being thus præcipitat, and all hopes of reprieve uncertain, a wylie loun advised him to lay by the ſheep's (which had done him fo little good,) and put on the foxe's ſkin, who covertly, through fear, hiding his own tail between his legs, and griping another's train, paſſed through all the gates undiscovered, and ſwa is a-miffing.

This he was forced, when right did fail,  
To give them a flap with a foxe's tail.

Now, what is become of him fine fyne, and what proclamations was iſſued out after him, you may probably hear hereaſter.

Mean while, because the contradiction reconciler was fo ſoon (contrary to the laws of diſputation,) interrupted, before he could bring forth his logical diſtinction; and fince the curious have ſorely tortured ther ingines, ſearching which of the ſchoal nicities that might [be], I ſhall only trouble you with a few of ther conjectures, and leave it to the judgment of the learn'd to determine which had been maift ſuitable.

One fancied that it was this that the Tyke might take the Test, *secundum quid*, though not *simpliciter*; ane other, *in sensu diviso*, though not *in sensu composito*; a third, that though it was deadly to take it with *verbal interpretations*, yet it might be safe enough with *mental reservations*; a fourth bethought him on this, that though his stomoch did stand at it, *in sensu univoco*, yet might easily digest it *in sensu æquivoco*; a fifth, (gerning the while,) was for this, that it might take it, though not *formaliter* in at his mouth by way of potion or bolus, yet, *fundamentaliter*, in at this bottome, by way of glister or suppository; a sixth brought forth this blind whely, that it might be safely taken, *in vehiculo cæcæ obedientiae*, bot could not think on the other member of the distinction, and some said it had none, the times when it was used being so ignorant and unintentive; a seventh, who thought all the former distinctions too subtil and airie, and that which was bred in the bone went niver out of the flesh, except by more severe medecine then was yet tried, proponed an admirable compound to be used as an excellent preparative to the Test, alleadging that all those needless scrupolosities did proceed from these ill humors which could not be expelled, without the total evacuation of Christianity; the Receipt, as it was transcribed out of the packet of advice from *Rome*, take as follows, from the laboratory of the Inquisition, *June 22.*

“ After many years pains and study, a niver-failing medicine, called a Catholique Pill, to purge out Christianity, approved by the most learned Fathers in *Spain, Italy*, and other places, the true Receipt is as follows:— Receipt, Take fiven pound weight of lay-ignorance, as many drhames of Monckish devotion as you can get, half a score of planary indulgences, and a douson of well-conceived equivocations, venial-fins as many as you please, and a pocket full of dispensations, boil all these in a Jesuit’s brain-pan, and add thirto, of the doctrine of probable opinions, and of seminary Priest’s loyalty, *quantum sufficit*, after fermentation clape in nine miracles prepared *secundum artem* by the affigns of Father Cressy, to give it a

tinctorie, sprinkle a small dash of penance, and wrap up the whole mass in the Pope's infalibility, and take it blindfold in a cup of absolution, at any time of life, bot especially at the hour of death, and it will do your buffyness. The operation is downward or infernal, carying all humors that way. It is also opiat or stupifying, because, after a sufficient dose of it, you may swallow any malignity whatsomever, without any hazard of griping. *Probatum est.*"

— *Ridendo dicere verum,*

*Quid vetat*—Juven. [Horat.]

Now, Sir, the news of the Tyke's escape being blazed abroad, the Court assembleth to consult what was then anent to be done, several overtures was proponed; one said, That the affronting escape, and other misdemeanors of that Tyke, was so great, that the highest severity was too little; an other said, Sine he is gone, let him go, what have we more to do bot put another in his place; a third said, That his presumptuous and treasonable carriage wold be of ill example to others, unless due punishment followed therupon; a fourth said, Had he not been confident of his own innocence, he wold niver have byden a tryal, and fine he met with such a surprising verdi&t, what could he do less then flee for his life? wold not the best in the Court, if he had been in his circumstances, done the like; a fifth said, If he had been condemned and hangod in time, he had not played us this prank, bot seeing we have misfed himself, let us seaze well on what he hath left behind him. After debating, they came to a concluſion, and ordered the saim to be published; the tenor whereof follows:—

" Whereas, ane cutt lugged, brounifh coloured Mastiff Tyke, called Watch, short leged, and of low stature, who being in office of Publick Trust, was required to take the Test, and when it was lawfully tendered to him, he so abused it and mangled it, wherupon he, after due tryal for his presumption, was convict of Treason, and sinceſyn hath broken pris'on;

wherupon the Court adjudges him to be hanged like a Dog, whenever he shall be apprehended; and in the meantime, declares his office, his hale esstat, heiratable and moveable, and all casualties belonging to him, to be echeated and forfaulted, and ordeans the colectors of the Court to uplift his rents and casualties, and to be countable to the Court, both for diligence and intermission, and also discharges all persons to refet or harbor the Fugitive Trator; and likeways gives assurance to all persons, who shall eather apprehend him or give true information of him, fwa that therupon he bees apprehended, the person fwa doing shall have 500l. for his pains. Given at our Court, &c."

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